

GENERAL LAWS

OF THE

STATE OF INDIANA,

PASSED AT THE

THIRTY-SECOND SESSION

OF THE

GENERAL ASSEMBLY.

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By Authority.

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## GENERAL LAWS.

### CHAPTER I.

An Act in relation to the New Albany and Vincennes Turnpike Road

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That from and after the passage of this act the superintendent of the New Albany and Vincennes road shall expend annually the sum of three thousand dollars, in repairs on said road between New Albany and Paoli, exclusive of the amount which he may be required to expend in making and repairing bridges. Amount to be annually expended.

SEC. 2. That the sum of five hundred dollars be appropriated and expended for the erection of two bridges across Lost river, where the road crosses the same, in the year 1848; and that the further sum of five hundred dollars be appropriated and expended for the erection of said bridges in the year 1849; and that it shall be lawful for the citizens of Orange county, or other persons to subscribe the sum of five hundred dollars, or any part thereof, for the erection of said bridges; and in case such subscriptions shall be made, the said citizens or persons so subscribing the same shall be entitled to have the several sums subscribed by them refunded out of the appropriations for the year 1849; and that the further sum of one hundred dollars for the year 1848, and one hundred dollars for the year 1849, be appropriated west of Paoli and expended by the superintendent of said road in repairs of the road, or for the purpose of keeping free ferries where they are now kept on Lost river on said road; and that the pay of the superintendent of Amount to be expended on bridges and when.  
Citizens of Orange county or others may subscribe.  
Amount refunded out of what appropriation.  
Further appropriations, for what purpose.



Pay of superin-  
tendent.

Rates of toll  
from 1st No-  
vember until  
1st May.

said road shall be, and is hereby, fixed at the sum of four hundred dollars per annum, and he shall not receive any greater or larger amount per annum for his whole services as such superintendent.

SEC. 3. That from and after the first day of November until the first day of May in each and every year, the following rates of toll shall be charged and collected on said road east of Paoli, viz: For every distance of ten miles, and for any shorter distance in proportion thereto, for every score of hogs or sheep, fifteen cents; for every score of cattle, thirty cents; for every score of horses or mules, led or drove, thirty-five cents; for every horse and rider, ten cents; for every sled or sleigh drawn by one horse or mule, fifteen cents; for each additional animal drawing the same, ten cents; for every dearborn, sulky, chaise or buggy drawn by one horse, twenty-five cents; for each coach, coachee, barouch, stage or other vehicle drawn by two horses, thirty cents; for each stage or coach drawn by four horses, forty-five cents; for each cart or wagon loaded and drawn by one horse, mule, ox or ass, fifteen cents; for each empty cart or wagon drawn by one horse, mule, ox or ass, ten cents; for each empty cart or wagon drawn by two horses, mules, asses, [or oxen,] twenty-five cents; for each loaded cart or wagon drawn by two horses, mules, asses or oxen, thirty cents; for each loaded cart or wagon drawn by three horses, mules, asses, or oxen, thirty-five cents; for each empty cart or wagon drawn by three horses, mules, oxen or asses, thirty cents; for each loaded wagon or cart drawn by four horses, mules, asses or oxen, forty-five cents; for each empty wagon or cart drawn by four horses, mules, asses or oxen, thirty cents; for each loaded wagon or cart drawn by five horses, mules, asses or oxen, fifty cents; for each empty wagon or cart drawn by five horses, mules, asses or oxen, thirty-five cents; for each loaded wagon or cart drawn by six horses, mules, asses or oxen, fifty-five cents; for each empty wagon or cart drawn by six horses, mules, asses or oxen, thirty-five cents.

Rates of toll  
from 1st May  
until 1st No-  
vember.

SEC. 4. That from and after the first day of May until the first day of November in each and every year, there shall be charged and collected on said road east of Paoli the following rates of toll on each ten miles distance, and for every shorter distance in proportion thereto, viz: For every score of hogs or sheep, five cents; for every score of cattle, ten cents; for every score of horses or mules, led or drove, twenty cents; for every horse and rider, five cents; for every sled or sleigh drawn by one horse or mule, ten cents; for each additional

animal drawing the same, two cents; for each dearborn, sulky, chaise, or buggy drawn by one horse, ten cents; for each chariot, coach, coachee, barouche, stage or other vehicle drawn by two horses, twelve-and-one-half cents; for each stage or coach drawn by four horses, twenty cents; for each loaded wagon or cart drawn by one horse, mule or ass, five cents; for each loaded wagon or cart drawn by two horses, mules, asses or oxen, ten cents; for each empty wagon or cart drawn by two horses, mules, asses or oxen, five cents; for each loaded wagon or cart drawn by three horses, mules, asses or oxen, twenty cents; for each empty wagon or cart drawn by three horses, mules, asses or oxen, ten cents; for each loaded wagon or cart drawn by four horses, mules, oxen or asses, twenty-five cents; for each empty wagon or cart drawn by four horses, mules, asses or oxen, fifteen cents; for each loaded wagon or cart drawn by five horses, mules, asses or oxen, thirty cents; for each empty wagon or cart drawn by five horses, mules, asses or oxen, twenty cents; for each loaded wagon or cart drawn by six horses, mules, asses or oxen, thirty-five cents; for each empty wagon or cart drawn by six horses, mules, asses or oxen, twenty-five cents.

SEC. 5. In all cases of vehicles of any kind, or animals not specified in the two last mentioned sections, passing on said road, such vehicles or animals shall pay toll at the same rates above provided for vehicles and animals the nearest in resemblance thereto, in the reasonable discretion of the person whose duty it may be to take said tolls.

Vehicles and  
animals not  
named like  
toll.

SEC. 6. In expending the amount appropriated by this act for repairs on said road, said superintendent shall let all the repairs to be made by contract, where the same is susceptible of measurement, and where it is not susceptible of measurement, he shall employ laborers by the day or otherwise as shall be most advantageous to the state.

Contracts to  
be made when  
improvements  
susceptible.

SEC. 7. That such expenditures as the superintendent on said road may have made, or may hereafter make on the finished part of said road on account of repairs absolutely necessary for the purpose of keeping the same in a condition to be traveled, be, and the same is hereby legalized; any thing in this act or in any other law on the subject of said road to the contrary notwithstanding: *Provided*, That nothing in this act shall in any way affect the priority of payment now provided by law for a certain note and interest in the New Albany branch bank, signed or endorsed by Henry Turner and others.

Improvements  
legalized; pay-  
ment of a note  
affected there-  
by.



Act authorizing a daily line repealed.

SEC. 8. That so much of an act now in force in relation to said McAdamised road as authorizes the running of a daily line of mail coaches on said road for the sum of three hundred dollars per annum, be, and the same is hereby repealed.

Who may construct portions of road. Superintendent issue certificates. Amount to be refunded, how and when.

SEC. 9. That the citizens of the counties of Knox and Davis and Martin, may, under the direction of the superintendent upon said road, construct any portion of said road within said counties; and it shall be the duty of said superintendent to issue certificates bearing six per centum interest thereon to any individual, for the amount such individual may have contributed towards the construction of the same, to be refunded out of the profits of such portion of said road so constructed, whenever the same shall be so far finished that the erection of toll gates shall be authorized by the General Assembly of the State of Indiana, and to this end the said superintendent shall have full power to make a final location of said road, where the same has not been already made.

SEC. 10. All laws on the subject of said road so far as the same contravene the provisions of this act, be, and the same are hereby repealed.

SEC. 11. This act to take effect and be in force from and after its passage.

## CHAPTER II.

An Act explanatory of an act entitled "an act to amend an act entitled an act for the benefit of the volunteers of the Mexican war, and for the relief of county treasurers," approved January 13, 1848.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the term of volunteers, whenever it occurs in the act entitled an act to amend an act for the benefit of the volunteers for the Mexican war, and for the relief of county treasurers, approved January 13, 1848, is hereby declared to mean privates and non-commissioned officers, as it did in the act of 1847, to which the above entitled act is amendatory.

SEC. 2. This act to be in force from and after its passage and publication in the Indiana State Sentinel.

## CHAPTER III.

An Act authorizing the repair of the building on the Governor's Circle.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the treasurer, auditor, and secretary of state, are hereby empowered and directed to cause to be made such repairs in the foundation and roof of the building in the governor's circle, as will render it safe to be occupied: *Provided*, That on careful examination they deem it good policy for the state to make the repairs.

SEC. 2. That if the officers above named shall be of the opinion that the interest of the state requires the repairs contemplated by the 1st section of this act, the auditor of state is hereby authorized to audit, and the treasurer to pay out the state treasury such an amount as may be necessary to meet the expenditure which shall be necessary in making said repairs.

SEC. 3. That if it shall be deemed impolitic to repair said building, and it shall be deemed unsafe longer to occupy it, the auditor of state is authorized to occupy so much of the lower story of the state house, as shall be necessary for the convenient discharge of the duties of his office.

SEC. 3. This act shall be in force from and after its passage.

## CHAPTER IV.

An Act relative to the Marion circuit court.

[APPROVED JANUARY 18, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the acts in force as authorizes a term of the Marion circuit court to be held in the month of January, A. D. 1847[8], be and the same is hereby repealed.

SEC. 2. It shall be lawful for said court, at the June term, to sit for chancery business after the expiration



of said term as now limited by law, so long as the business shall require it.

SEC. 3. This act to be in force from and after its passage, and shall be published in the Indiana State Sentinel and Journal.

## CHAPTER V.

An Act fixing the time of holding courts in Hancock county.

[APPROVED DECEMBER 17, 1847.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the probate court of Hancock [county] shall hold its next term on the fourth Monday in January next, and continue for two weeks if the business thereof requires, and there shall not be a February term; and the time of holding the spring term of the circuit court of said county is extended to and shall commence on the first Monday in April next, and may set six days if the business thereof requires, and there shall be no February term of said court; all laws fixing any other time of holding said courts, as to the time of holding the same are hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage, and a copy of this act shall be transmitted to the clerk of said court by the secretary of state, and shall be filed in the office of said clerk.

## CHAPTER VI.

An Act to change the time of holding probate courts in the county of Shelby.

[APPROVED JANUARY 21, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the time of holding the probate courts in and for Shelby county, shall hereafter be holden

on the first Mondays of February, the second Mondays of May, the Tuesdays after the first Mondays of August, and on the second Mondays of November for each year, and may sit twelve days at each term if the business require it.

SEC. 2. All process hereafter issued by the clerk of said probate court shall be made returnable on the days and times above mentioned, and all process and writs which may have been issued before the passage of this act, shall have the same effect as if they had been made returnable on the above mentioned days, of which all persons interested shall take notice.

SEC. 3. It shall be the duty of the secretary of state, immediately on the passage of this act, to forward a certified copy thereof to the clerk of said probate court.

SEC. 4. This act to be in force from and after its passage.

## CHAPTER VII.

An Act to authorize the treasurer of state to draw the state's dividends on her stock in the Madison and Indianapolis railroad, and for other purposes.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of state is hereby authorized, upon being notified by the secretary of the Madison and Indianapolis railroad company of the amount of each semi-annual dividend to which the state may be entitled on her stock, to issue his draft in favor of the treasurer of state for the amount declared upon the stock of the state, and such draft shall authorize the treasurer of state to receive the same and give a receipt for it to the proper officer of the company.

SEC. 2. *And be it further enacted*, That for the purpose of preventing the confusion heretofore experienced as to our state bonds, and for the purpose of establishing a needful check upon the office of the state agent in New York, the auditor of state shall cancel on the register of bonds in his office all bonds surrendered or to be surrendered, and make out a new and complete register or registers of the stock certificates granted or to



*Agent*  
be granted in lieu of surrendered bonds, preserving proper columns for entries of semi-annual interest on each certificate, so as to show the state of the account between the state and each holder of certificates, for which service the state auditor shall pay such a sum as he may deem just and reasonable out of the contingent fund incident to the payment of the public debt.

SEC. 3. This act to be in force from and after its passage.

### CHAPTER VIII.

An Act to amend the ninth article of chapter 30 of the Revised Laws of 1843.

[APPROVED FEBRUARY 16, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where a power or discretion is given in any last will and testament, or codicil, to sell real estate, it shall be taken and construed as a power to the executor to sell and convey without any order, judgment or decree of any court, and an administrator with the will annexed, shall have all the power that an executor appointed by the will would have had if he had executed the will.

SEC. 2. That all sales heretofore made by executors or administrators with the will annexed, made in accordance with the power given by any will, are hereby confirmed.

SEC. 3. All acts and parts of acts contravening the provisions of this act are hereby repealed.

SEC. 4. This act to be in force from and after its passage

### CHAPTER IX.

An Act relative to the suit of the Vincennes University against the State of Indiana.

[APPROVED FEBRUARY 11, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Governor, Auditor, Secretary, and Treasurer of State, be, and they are, hereby, authorized and empowered to fix and allow such compensation to the counsel employed, or who may be employed by the Governor to defend the suit of the Vincennes University against the State of Indiana, now pending in the Marion circuit court, as they shall deem fair and reasonable, and upon such allowance the auditor shall audit the same, and [the] treasurer shall pay the same out of any moneys in the treasury not otherwise appropriated; and they shall further be authorized and empowered to allow, audit, and pay all necessary expenses and costs incurred in the defence aforesaid to the final decision of the case: *Provided*, That this act shall not be so construed as to exclude such costs from being taxed, collected, and refunded according to the rules of law in other cases.

SEC. 4. This act to be in force from and after its passage.

### CHAPTER X.

An Act to amend an act, entitled "An Act to reduce the tolls on the New Albany and Vincennes Road, and for other purposes."

APPROVED FEBRUARY 11, 1843.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the third section of said act be so amended that the bond of the superintendent may be taken and approved by the clerk of the Daviess circuit court in like manner as is provided in said section, that the same may be taken and approved by the clerk of the Orange or Floyd circuit courts, which bond, when so taken, shall be filed in the office of the clerk of said Daviess circuit court for the purposes named in said



section, and said clerk shall administer the oath to said superintendent as provided in said section.

SEC. 2. This act to take effect from and after its passage.

## CHAPTER XI.

An Act to amend an act, entitled "An Act to provide for the election of Prosecuting Attorneys by the people in the several counties," approved January 27, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall and is, hereby made the duty of the prosecuting attorneys in the several counties of the first, sixth, ninth, and thirteenth judicial circuits, to attend to and see that proper entries are made on the order-books of the courts where they severally prosecute in all state causes where there is a forfeiture of a recognizance; and where said forfeiture shall not be satisfied it shall and may be lawful for the prosecuting attorney to charge and collect a docket fee of three dollars.

SEC. 2. That when any recognizance is forfeited in any state cause, and the same shall not be set aside by the court, it shall and it is, hereby, made the duty of the prosecuting attorneys in said circuits in the proper court or courts where they prosecute, to see to and prosecute all causes on *scire facias* issued on any forfeited recognizance in favor of the State of Indiana; and in all causes on *scire facias* where judgment shall be rendered in favor of the state, the said prosecuting attorneys shall have the right to charge and collect a docket fee of five dollars.

SEC. 3. That it shall and may be lawful for the several prosecuting attorneys in the circuits above referred to, to attend to any and all state causes in the supreme court from their respective courts by appeal or writ of error, and reserve the fees now or hereafter to be allowed for the same.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER XII.

An Act to regulate clerk's fees in the probate court of Jackson county.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the clerk of the circuit court in the county of Jackson and state aforesaid, shall enter, docket, and continue causes in the probate court of said county as contemplated by the provisions of the forty-fourth chapter of the Revised Statutes of 1843, at ten cents per hundred words for such services, and that not less than one hundred words shall be deemed as such and charged for as the law now provides.

SEC. 2. And that all acts or parts of acts contravening the provisions of this act be and the same are hereby repealed.

SEC. 3. This act to be in force and take effect from and after its passage.

## CHAPTER XIII.

An Act to authorize the inspection of hay in the several counties in this state.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any five free holders of a township in any county in this state shall make application by petition to the board of county commissioners of the county in which said township may be situate, praying the appointment of an inspector of hay for said township, it shall be the duty of said board, if they deem it necessary, to appoint some suitable person, resident of said township, as inspector of hay, who shall hold said appointment for the term of three years, and until a successor is appointed and duly qualified.

SEC. 2. That it shall be the duty of said inspectors to inspect all hay in bales that may be offered for sale in their townships respectively, and to weigh the same when required so to do by either the buyer or seller, and shall brand each bale 'No. 1,' 'No. 2,' and so on accord-

Board, on application, may appoint inspector of hay.

Inspector's duty.



ing to the quality of said hay, making the first quality 'No. 1,' and shall also brand the weight of each bale thereon in pounds.

Hay scales and  
how procured  
and kept.

SEC. 3. That each inspector so appointed as aforesaid shall procure, at the expense of the county, scales suitable for weighing hay in the bale, and also all letters and figures suitable and necessary for branding the same according to the provisions of this act, and shall keep the same in good condition, and transfer the same to their successors in office respectively.

Compensation  
of inspector.

SEC. 4. That said inspector shall receive from the owner or owners of any hay so by him inspected and branded as aforesaid, the sum of six cents per bale for any number of bales not exceeding ten bales weighed in the same lot; for all over ten bales and under fifty bales, the sum of five cents per bale; and for fifty bales and upward, the sum of three cents per bale; and whenever said inspector shall be required to remove the scales and other apparatus for weighing, branding, &c., from one part of his township to another, the person requiring the removal shall pay the expense of such removal in addition to the above fees.

Penalty for  
altering brand.

SEC. 5. That if any person shall alter or erase any mark or brand so placed on any bale of hay by said inspector as aforesaid, he or they offending shall, on conviction thereof, forfeit and pay the sum of fifty dollars to be recovered in any court of competent jurisdiction.

Oath of  
inspector.

SEC. 6. Every such inspector, before entering on the duties of his trust, shall take the oath prescribed in the 9th section of the 27th chapter of the Revised Statutes of 1843, and shall have the oath endorsed on the back of his appointment according to said last named section.

SEC. 7. This act to be in force from and after its passage.

## CHAPTER XIV.

An Act to amend an act entitled "an act to authorize the people of the several townships of the several counties to prohibit the retailing of spirituous liquors," approved January 28, 1847.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where the certificate requiring of the officers of the election contemplated in the third section of the above entitled act, has been made to the clerk of the circuit court, instead of the auditor of the county, the same shall be deemed and taken as sufficient, and shall have the same effect as if it had been made to the said auditor; and all officers of such election aforesaid who have made the same shall not be subject to indictment or fine for a failure of their duty in the premises.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER XV.

An Act concerning the State Library.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the State Librarian, by and with the expressed consent of the governor, auditor, treasurer, and secretary of state, shall be, and he is hereby authorized, to sell, exchange, or dispose of in any other way, for the benefit of the State Library, any duplicate, imperfect, damaged, or other work or works not wanted for the use of said library.

SEC. 2. This act shall be in force from and after its passage.



## CHAPTER XVI.

An Act to extend the jurisdiction of Justices of the Peace in certain criminal cases.

(APPROVED FEBRUARY 16, 1848.)

Justices' jurisdiction extended in criminal cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That from and after the passage and publication of this act, justices of the peace of the several counties of this state shall have and possess concurrent jurisdiction with the circuit court of their respective counties in all the criminal cases enumerated and specified in section sixty-one, sixty-two, sixty-three, sixty-four, sixty-nine, eighty-one, eighty-two, ninety-two, ninety-three, ninety-four, ninety-five, ninety-seven, ninety-eight, ninety-nine, one hundred and two, one hundred and three, one hundred and seven, and one hundred and ten, of article two of chapter fifty-three of the Revised Statutes of 1843; *Provided, however*, That no justice of the peace shall have power, in any of the cases above enumerated, to assess a fine of more than twenty-five dollars, nor shall any justice of the peace in any of the cases above enumerated have power to add imprisonment as a part of the penalty for any of said offences.

Number of jurors discretionary with either party.

SEC. 2. In all the cases enumerated in the first section of this act, it shall be the duty of the justice of the peace in the proper county, on the filing of the proper affidavit before him, to issue the proper process and all necessary subpoenas for the parties, and all proper process for a jury necessary to a proper trial of said cause, and either party may call a jury of three, six, or twelve men, as to them may seem proper, for the trial of said cause.

Change of venue may be granted.

SEC. 3. In any of the causes enumerated in the first section of this act, it shall be the duty of the justice of the peace before whom said cause is pending for trial, on good cause shown by the defendant or defendants, by proper affidavit, to grant a change of venue to send before any other justice of the peace of the proper county, and it shall be his duty to transmit to said justice to whom said change is taken, a transcript of the cause, with all the papers therein, and cause and require all witnesses in attendance before him, to go and forthwith appear before the justice of the peace to whom said change is sent; *Provided*, That in the trial of all such cases the defendant may have the right, in his discretion, to a jury of three, six, or twelve men.

SEC. 4. In any of the causes enumerated in the first section of this act, whenever the defendant or defendants are found guilty, and a fine shall be assessed against him or them, the justice of the peace shall enter on his docket, as a part of his judgment, that the defendant or defendants shall stand committed in the hands or custody of the constable until the fine and costs are paid or replevied.

To stand committed in the hands of constable till fine and cost paid or replevied.

SEC. 5. Should any defendant against whom any judgment is rendered before any justice of the peace, fail or refuse to pay the fine and cost, said justice may commit him to the proper jail of the county, there to remain until discharged by law; *Provided, however*, That when any defendant shall fully satisfy the justice that he is wholly unable to pay said fine and cost, the justice may discharge said defendant from custody, and may issue execution against the goods and chattels of said defendant or defendants, which shall be a lien on the goods and chattels of said defendant from the date thereof, and said execution shall be returnable in sixty days from the date thereof.

Justice may commit or discharge.

SEC. 6. That any person committed to jail under and by the provisions of this act, may discharge himself therefrom by paying the fine and all the costs that have accrued up to the time of payment, to the jailor in whose custody he may be, who shall pay the sum over to the justice who rendered said judgment, or his successor in office, after retaining his just fees, or said defendant may discharge himself from prison by procuring some person to the acceptance of said justice, to enter himself as replevin bail for the same on the docket of said justice or his successor, by making and filing with said jailor his affidavit that he has no goods and chattels, rights, credits, moneys, and effects, subject to execution, out of which to pay said fine and costs, which shall authorize said jailor to discharge said defendant from custody: *Provided, however*, That execution may still issue on said judgment against the goods and chattels of said defendant.

How def't may be discharged from imprisonment.

SEC. 7. On the return of an execution which may have been issued by any justice on any judgment by him rendered as aforesaid, that said defendant has no goods or chattels, rights, credits, moneys, and effects, out of which to make said fine and costs, the justice of the peace before whom said judgment may have been rendered, or his successor in office, may cause to be filed in the clerk's office of his county a certified copy of said judgment, which shall have all the force and effect of a transcript filed in a civil cause, and shall bind the land

Transcript may be filed in clerk's office by justice. Effect thereof.



of the defendant, and a *scire facias* may issue thereon as in civil causes, and be governed by the same rules and regulations that civil causes are governed, so far as the same are applicable, and on all causes on *scire facias* contemplated by this act, it shall be the duty of the county prosecuting attorney to attend to and prosecute the same in the circuit court, and on judgment being had thereon he shall be entitled to a docket fee as in other cases.

Mode of procedure by justice.

SEC. 8. In all causes contemplated by this act, the justice of the peace before whom the same is pending, shall, for good cause shown, grant continuances as in other causes, and if, in any case, the justice or jury trying the same shall deem the maximum penalty hereby authorized to be adjudged by him or them, an adequate punishment for the offence committed, he or they shall be governed by the provisions of the eighth section of chapter fifty-five of the Revised Statutes of 1843, so far as the same are applicable, and such justice shall make return of the list of fines and penalties assessed under the provisions of this act as is required in the forty-first section of the fifty-fifth chapter of the Revised Statutes of 1843.

SEC. 9. *Provided, however,* That justices of the peace in the county of Jay and Blackford shall have exclusive jurisdiction in all cases hereinbefore mentioned or referred to in this act.

SEC. 10. This act shall take effect and be in force from and after its publication, any laws to the contrary notwithstanding.

#### CHAPTER XVII.

An Act to extend the February term of the probate court of Bartholomew county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the probate court for Bartholomew county may, at its February term in the year 1848, set two weeks if the business thereof shall require.

SEC. 2. This act to be in force from and after its passage, and the filing a certified copy thereof in the

clerk's office of said court, and it is hereby made the duty of the Secretary of State to forward a copy thereof to the clerk of Bartholomew county.

*Repealed.*

#### CHAPTER XVIII.

An Act prescribing the manner of assessing and paying the taxes due upon the stock of individuals in the Madison and Indianapolis Railroad company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the capital stock of the Madison and Indianapolis railroad company shall be assessed and paid in the manner hereinafter prescribed.

SEC. 2. By the second Monday of November annually, the board of directors of said company shall cause to be transmitted to the auditor of State, and filed in his office, a correct statement of the amount of stock owned and paid out in said company, other than that held by the State, such statement to be certified to, under oath to be correct, by the president and secretary of said company.

SEC. 3. If said company fail to forward and file in the auditor's office the statement aforesaid at the time required, said company shall forfeit and pay to the state the sum of one thousand dollars.

SEC. 4. Immediately upon receiving such statement aforesaid, the auditor of State shall proceed to assess upon such company the amount of taxes due therefrom according to the law then in force.

SEC. 5. He shall, within ten days after receiving such statement, notify said company of the amount assessed, which notice shall be given by filing the same in the office of treasurer of state.

SEC. 6. Should said company fail to transmit the statement above required, the said auditor shall proceed to estimate, from the best sources in his power, the amount of taxable stock in said company, and give notice as required in the preceding section.

SEC. 7. The board of directors shall cause to be paid to the treasurer of state, the amount of taxes so assessed.

Directors to report to Auditor

Forfeiture for failure to forward to Auditor.

Auditor's duty as to assessment.

Notice of assessment how given.

Auditor's duty on failure of Co to transmit.

Tax when to be paid.



ed, by the second Monday in December, and file the treasurer's receipt therefor with the auditor of state.

Consequences  
of a failure to  
pay.

SEC. 8. If said company fail to pay as aforesaid, it shall forfeit and pay to the state the sum of five thousand dollars; such taxes shall be paid out of the funds of the company, and shall be rateably deducted from the dividends of the stockholders whose stock was or may be taxed, or shall be charged upon said stock if no dividends be afterwards declared.

SEC. 9. The same penalties and interest shall be charged on the delinquent taxes due from said company as in other cases.

Remedies for  
taxes and pen-  
alties, what.

SEC. 10. For the recovery of such taxes, penalties, and interest, the same remedies may be had against said company as are provided in sections 139, 140, and 141, of the 12th chapter, article 9th of the revised laws of 1843.

Auditor to  
cause prosecu-  
tions for penal-  
ties.

SEC. 11. The auditor of state shall cause prosecutions to be instituted for the recovery of the penalties aforesaid, and the same when received may be drawn from the state treasury by warrant from the auditor.

SEC. 12. This act to take effect and be in force from and after its passage.

## CHAPTER XIX.

An Act to regulate the practice of law in the Lagrange circuit court.

[APPROVED FEBRUARY 16, 1848.]

Manner of pro-  
ceeding at first  
term regulated.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first term after the service of process in every common law and chancery cause shall be an appearance term, at which the parties shall be required to appear on the first call of the docket, if the process shall have been served ten days, or publication made sixty days before the first day of the term; and upon the appearance of the parties, rules shall be taken to expire on the next succeeding day: *Provided, however*, That the plaintiff or complainant, as the case may be, may in all cases, when the writ or subpoena shall be actually served, and the declaration or bill filed in the clerk's office at least sixty days prior to the first day of

the then next succeeding term elect to have a trial, or having at the next succeeding term after such service and filing, by endorsing on the declaration or bill a statement that he elects to have such a trial or hearing, unless the court shall, on good cause shown, and an affidavit of meritorious defence, continue the same; a copy of which the proper clerk is hereby directed to endorse on such writ or subpoena; and if the issue in such last named causes are not made upon the call of the docket, the court may compel the completion thereof.

SEC. 2. If the writ issue before the declaration is filed, the plaintiff shall file his declaration on or before the first calling of the cause, or on failure the suit shall be for that cause dismissed.

When declara-  
tion to be filed.

SEC. 3. If the plaintiff or complainant fail to appear on the first calling of the cause, he shall be non-suited; and if defendant fail to appear as aforesaid, judgment shall be rendered against him by default: *Provided*, The declaration has been filed ten days before the first day of the term.

Effect of either  
party failing to  
appear.

SEC. 4. The second Monday in each month shall be a rule day, on which the clerk shall attend in his office, (except in term time) and enter rules in a book to be kept for that purpose, which rules shall expire by the next rule day.

Rule days,  
when.

SEC. 5. In case either party shall fail to comply with any rule, or before the proper rule day, the clerk shall note such failure on the rule book, and judgment shall be thereupon rendered against the party in default, unless the court, for good cause shown, and on affidavit of merits shall set such default aside, in which case the party in default shall be required to comply with such rule instant, and the opposite party shall be entitled to a trial at that term as in other cases.

Clerks' duty in  
relation of  
rules.

SEC. 6. All causes shall be docketed for the first day of the term in the following manner: 1st. State cases; 2d. All common law and appeal cases; and 3d. Chancery cases; all in the order in which they are filed in the clerk's office.

How causes to  
be docketed.

SEC. 7. Upon the call of the docket, the parties in every case continued from the last term, when a jury trial may be demanded [may] elect whether the same shall be tried by the court or a jury, and the court shall designate each case accordingly, and when such election has been made, the parties shall abide by the same during that term, unless for good cause shown, arising subsequent to such election.

Parties may  
elect; how trial  
shall be had.

SEC. 8. From the beginning of the second week until the jury are discharged, jury trials shall have the pre-

Jury trials to  
have prefer-  
ence.



ference over all other business in the order in which they stand on the docket; and when a case is called for trial the same shall be forthwith tried, dismissed, or continued until the next term, if the parties agree thereto, or if either can show good cause upon affidavit for such continuance.

Cost, when to  
be paid.

SEC. 9. No party shall be permitted to withdraw a demurer of joinder, or confess a demurer and amend his pleadings, except upon praying or confessing a judgment for all the costs occasioned by such demurer.

SEC. 10. This act to be in force from and after its passage.

## CHAPTER XX.

An Act in relation to mortgages due to the Treasury Fund and the Indianapolis Fund.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of an act, entitled "An act providing for the better payment of the mortgages due to the University funds, and other trust funds," approved January 19, 1846, be, and they are, hereby, extended to the treasury funds and Indianapolis fund mortgages.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER XXI.

An Act for the relief of replevy bail.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any replevy bail, or bail for stay of execution upon any judgment rendered in any circuit or probate court, or by any justice of the peace, may have paid and satisfied the plaintiff or judgment creditor for the same, the said bail shall be entitled to have execution upon said judgment against the original judgment debtor or debtors, and against any other co-securities in the manner and to the same extent that the judgment creditor might have had before such payment, subject to all equities existing between any of the said parties in relation to the same: *Provided, however*, That there shall not be levied and collected of any such co-security or co-replevy bail any further sum than the rateable proportion which said co-security would be bound to contribute according to law and equity.

Bail may have  
execution.

SEC. 2. It shall be lawful for the said security, upon paying any such judgment, to receive from the judgment creditor an assignment thereof, which shall have the force and effect of assignments in other cases, or he may have the benefit thereof without such assignment, subject to the equities between the parties, and the provision as in the foregoing section.

Security may  
have judgment  
assigned to  
him.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER XXII.

An Act to amend an act entitled "an act to authorize the formation of voluntary associations," approved January 27, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the provisions of an act to authorize the formation of voluntary associations, approved January 27, 1847, be, and the same are hereby



extended to the order of the Daughters of Temperance as fully, and to all intents and purposes, as if said order had been named in the original above recited act; but said order shall not be required to comply with the requisition of section 5 of said act.

SEC. 24. This act to be in force from and after its passage.

### CHAPTER XXIII.

An Act to authorize the construction of plank or coal roads.

[APPROVED FEBRUARY 16, 1848.]

Rights of voluntary associations.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any five or more persons may voluntarily associate themselves together and have all the powers of a corporation, by such name as they may mutually agree upon, for the purpose of constructing a plank or coal road, with such capital stock as may be deemed sufficient for the object of the association, and the same to increase as necessity may require; and such association shall be governed in all things by an act entitled "an act for the formation of voluntary associations," approved January 27, 1847, except as herein-after provided, or as may be inconsistent herewith, or the object of such association.

SEC. 2. Such corporation shall have power and authority to do any and all acts and things necessary to carry into effect the objects of the association.

SEC. 3. After such corporation shall have organized, it shall be lawful for it to enter upon any land, and survey and locate such road, and the damage thereby done to such land, shall be appraised in like manner as may be at the time provided for appraising damages for laying out and opening a county road.

Toll gates may be erected, and toll charged on.

SEC. 4. After such road shall be built, it shall be lawful for such corporation to erect and keep up toll gates upon and across the same, and to charge and receive such tolls as may be authorized by the board doing county business, in the county in which such road shall be situated previous to the construction of said road: *Provided*, The tolls shall not exceed the following rates

per mile, to-wit: For every two or four wheeled vehicle, drawn by one horse or other animal, one and a half cents; for every horse or other animal in addition, one-half cent; for every sled or sleigh drawn by one horse or other animal, one cent; for every additional horse or other animal, one-half cent; for every horse and rider, one cent; for every other animal of the horse kind, six months old or upwards, led or driven, one-fifth of one cent; for every head of neat cattle one year old and upwards, one-tenth of one cent: *Provided, however*, That the executive expresses of the State government, munitions of war, persons going and returning from public worship, and all funeral possessions shall pass said road toll free: *Provided, further*, That should the county commissioners fail to fix the rates of toll, the above rates shall be charged.

SEC. 5. Section fourteen of the act above alluded to, so far as this act is concerned, or any association formed under the provisions hereof, is hereby repealed.

SEC. 6. This act shall be in force from and after its passage.

### CHAPTER XXIV.

An Act to provide for the taxing of estates in dower.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter all taxes assessed upon real estate in which there is an estate in dower which shall have been assigned, the amount of such taxes shall be collected of such tenant in dower as other taxes are collected; and in default of payment, such estate in dower shall be sold as other lands are sold for taxes.

SEC. 2. This act to be in force from and after its passage.



## CHAPTER XXV.

An Act to repeal so much of an act entitled an act fixing the time of holding the Probate Courts of Ripley county, approved January 7, 1847, as relates to the compensation of the Probate Judge.

[APPROVED FEBRUARY 16, 1848]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of said act as relates to the compensation of the probate judge, be and the same is hereby repealed.

SEC. 2. That the judge of said probate court shall hereafter be allowed the sum of two dollars per day for each day he shall be engaged in the duties of his office; *Provided, however*, That the commissioners of said county of Ripley may allow him in their discretion one dollar in addition per day, to be paid out of the county treasury.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER XXVI.

An Act providing for a special term of the Probate Court of Washington County, Indiana.

[APPROVED JANUARY 18, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the judge of the probate court of said county of Washington be, and he is hereby authorized and directed to hold a special term of said court at the court house in Salem in the county aforesaid on the fourth Monday in January, A. D. 1848, for the purpose of appointing an administrator of the estate of Eli W. Malott, late of said county, deceased, and making such order for the sale of the personal effects of said decedent as may seem right and just.

SEC. 2. This act shall be in force from and after its passage, and it is hereby made the duty of the secretary of state to transmit to the clerk of said court a copy of this act duly authenticated under the seal of state.

## CHAPTER XXVII.

An Act relative to the practice in the Laporte Circuit Court.

[APPROVED JANUARY 29, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That when the declaration has been filed, and process served ten days before the day set for trial of any action at law in the Laporte circuit court, the cause shall stand for trial at the term at which such writ or process is returnable.

SEC. 2. Section three hundred and fourteen, chapter forty of the Revised Statutes of 1843, so far as it contravenes the provisions of this act, be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

## CHAPTER XXVIII.

An Act relative to the time of making reports to the Legislature.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter all officers who are now or may hereafter be compelled by law to make a report to the legislature, shall communicate the same to the legislature during the first week of each session.

SEC. 2. All laws and parts of laws coming within the purview of this act, shall be and the same are hereby repealed.

SEC. 3. This act to be in force from and after its passage.



## CHAPTER XXIX.

An Act to extend the time for appraising certain lands belonging to the Wabash and Erie canal.

[APPROVED FEBRUARY 15, 1848.]

Time for appointment extended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the time for re-appraising the Wabash and Erie canal lands, as provided by an act entitled "an act supplemental to an act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie canal to Evansville," approved January 27, 1847, be, and the same is hereby extended until the first day of December, 1848.

Lands may be appraised, but not sold for less than \$1 25 per acre.

SEC. 2. The trustees of the Wabash and Erie canal are hereby authorized to cause all the unsold lands in the Vincennes land district to be re-appraised and sold, subject to the rules and regulations specified in said act for the re-appraisement and sale of other lands: *Provided*, That none of such lands shall be sold for a less sum than one dollar and twenty-five cents per acre.

By what law appraisers governed. Trustees may refund.

SEC. 3. For the purpose of appraising the lands by this act authorized to be appraised, the several persons therein named, shall be governed in all things by sections 23, 24, 25 and 26, of the act above mentioned, so far as the same are applicable, and be possessed of the same powers, and entitled to the same compensation as therein specified, to be paid in the same manner and out of the same fund: *Provided, however*, That nothing herein shall be construed to prevent the appraisers appointed under this act, from appraising any tract of canal land, upon which the full amount of purchase money may have been paid to the state, if, in their opinion, justice to the owner of said land requires it. And if, upon such re-appraised value, it shall appear that the owner of said land shall have paid more than the sum at which the same shall have been re-appraised, it shall be lawful for the trustees, if they deem it right and proper, to refund any excess above such re-appraised value to the aforesaid owner, in such funds as were receivable in payment for such lands.

SEC. 4. After said lands shall be appraised as above provided, the several purchasers and holders of certificates for any of said lands shall be entitled to all the rights and privileges secured by said section 24, and all persons and officers shall be governed by the provisions of said section.

SEC. 5. This act shall be in full force from and after its passage.

## CHAPTER XXX.

An Act relating to the election of President and Vice President of the United States.

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the qualified electors of this state shall, on the Tuesday next after the first Monday in the month of November, in the year of our Lord one thousand eight hundred and forty-eight, and on the Tuesday next after the first Monday in November in every fourth succeeding year, assemble in their respective counties, at the usual places designated for holding elections, and proceed to elect a number of electors of President and Vice President of the United States, equal to the number of senators and representatives to which this state may be entitled by law in the congress of the United States, at the time when the president thus to be chosen should come into office; and where no apportionment of representatives shall have been made after enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of senators and representatives; which election shall commence and close at the same hours, and be conducted in the same manner, as is or may be directed by law for electing members of the General Assembly of this state.

When to vote for electors of President and Vice President of the United States.

SEC. 2. It shall be the duty of the board of judges of such election, in the several townships, to make out a certificate under their hands and seals, which certificates shall certify in words at full length, the number of votes that each person received for elector, and the same shall be attested by the clerks of said election, which certificates shall be sealed in the presence of the judges of such election; and the same shall be put into the hands of one of the judges, who shall, on the ensuing Thursday, deliver the same to the clerk of the circuit court, at the court house or usual place of holding courts in and for said county; or in his absence, to such other officers as is now required by law.

Election, how conducted.

SEC. 3. The several messengers who may be appointed by the governor to convey to each of the electors of President and Vice President of the United States, the certificates of his or their election, shall receive the same rate of compensation as is authorized by law to be paid to the marshals for collecting the votes for such electors of the president and vice president: *Pro-*

Messengers, how paid.



vided, That when any person shall be appointed both as marshal and messenger, as aforesaid, he shall receive as such messenger mileage only for the extra travel required in discharging the duties of said appointment: *Provided, further,* That the auditor shall, before auditing the account, be satisfied that such messenger performed the duties required of him by law.

SEC. 4. That section one hundred and thirty-four, and so much of section one hundred and thirty-six, of article twelve, and chapter five, of the Revised Statutes, as conflicts with this act be, and the same are hereby, repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

### CHAPTER XXXI.

An Act to regulate the signing of bills of exceptions in the circuit courts.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the judges of the circuit courts shall not hereafter be permitted to sign any bill or bills of exceptions taken in the progress of the trial of any cause hereafter tried, after the expiration of the term at which the same is tried, or that at which judgment is rendered, unless by agreement of the parties.

SEC. 2. This act to be in force from and after its passage.

### CHAPTER XXXII.

An Act to amend the 14th section of article 1st of chapter 14 of the Revised Statutes of 1843.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the 14th section of the first article of chapter 14 of the Revised Statutes of 1843, be so amended that the provisions of said section shall not apply to students of law in the university of Indiana.

SEC. 2. This act to take effect and be in force from and after its passage.

### CHAPTER XXXIII.

An Act for the relief of widows and orphans.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever hereafter any person who has or may hereafter have an insurance upon his life, either for life or for a term of years, whether issued in or without the state, shall die intestate, and leaving heirs surviving, any widow and children, or either, the sum or net amount of the insurance becoming due and payable by the terms of the policy of insurance, shall be payable as follows: If there be a widow and children, the one-half of such amount shall go [to] the widow, and the other half to such child or children; if there be a widow and no child or children, then the whole of said amount shall go to such widow; and in case there be no widow, then the same shall go to such child or children, and the said amount of insurance shall not, except in default of such widow and children, be subject to the claims of the personal representatives of such intestate, or of any of his creditors.

Amount of life insurance of intestate, how to descend.

SEC. 2. Any person having an insurance upon his life, as above provided, may by his last will and testament, direct the disposition of the proceeds of such policy of insurance, as to him may seem proper, free from the claims of his personal representatives, or of any of

Interest in life insurance may be willed.



his creditors: *Provided*, That the exception of this section shall only apply where such testamentary disposition is in favor of the widow or children of such testator.

Widow's interest in her husband's life insurance.

SEC. 3. It shall be lawful for any married woman by herself, and in her name, or in the name of any third person with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving her husband, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of her husband or any of his creditors; and in case of the death of the wife before the decease of her husband, the amount of the insurance shall be payable after her death, to, and inure to the benefit of her children.

SEC. 4. The exemption contemplated in this act shall only apply where the premium annually paid on any policy of insurance does not exceed the sum of one hundred and fifty dollars.

SEC. 5. This act to be in force from and after its passage.

#### CHAPTER XXXIV.

An Act creating the Tippecanoe Court of Common Pleas, and defining its jurisdiction.

APPROVED JANUARY 18, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be, and hereby is organized in the county of Tippecanoe in this state, a court of record, to be called and styled the "Tippecanoe Court of Common Pleas," consisting of one judge.

Qualifications and residence of judge.

SEC. 2. The judge of said court shall have the same qualifications as are now required by law for the judges of the circuit courts of this state, and shall, at the time of his appointment be, and thereafter continue to be a resident of the county of Tippecanoe.

How appointed

SEC. 3. The judge of said court shall be appointed by joint ballot of both branches of the General Assem-

bly, and shall be commissioned by the Governor of this state.

SEC. 4. The judge of said court shall hold his office for the term of seven years if he shall so long behave well; shall take the oath of office prescribed by law and by the constitution of this state, and shall be fully qualified and empowered to do any act required or authorized by law, from and after being commissioned and taking his oath of office.

Term and Oath

SEC. 5. The judge of said court shall be allowed and paid an annual salary of one dollar, to commence from the time of his taking the oath of office, and to be paid out of the county treasury of the county of Tippecanoe annually, and the said judge shall also be entitled to receive and be paid as perquisites of his office, all the moneys which may be collected and received by and under the provisions of the twenty-ninth and thirtieth sections of this act. The judge of said court may and it shall be lawful for him to practice as attorney, solicitor or counsellor in any and all other courts of this state, except said court of common pleas.

Salary, compensation, and privileges, of judge.

SEC. 6. The said Tippecanoe court of common pleas shall have a seal, to be devised by the judge thereof, who shall cause a description thereof to be recorded on the records of said court, and the expense of procuring said seal shall be paid for by the county of Tippecanoe.

Seal, how to be paid for.

SEC. 7. The clerk of the Tippecanoe circuit court shall be ex-officio clerk of said Tippecanoe court of common pleas, and shall provide separate dockets, order books, fee books, final records, and all other books and records necessary for said court of common pleas, at the cost of said county of Tippecanoe, in the same manner as is now provided by law for record books of said Tippecanoe circuit court.

Who clerk, his duty.

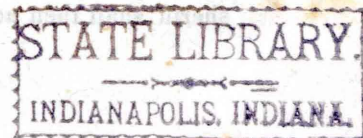
SEC. 8. The said clerk shall be allowed the same fees and compensation to be taxed in each case as are now allowed by law in the circuit court.

Clerk's fees.

SEC. 9. The sheriff of said county of Tippecanoe, shall be *ex-officio* sheriff of said Tippecanoe court of common pleas, and shall perform his duties in the same manner, and be entitled to the same fees and compensation as are now provided by law in said circuit court.

Who sheriff, his compensation.

SEC. 10. The said Tippecanoe court of common pleas shall have original concurrent jurisdiction with the circuit courts in this state in all civil cases, both at law, and in equity, and concurrent appellate jurisdiction in all civil causes, originating before justices of the peace of said county.





Jurisdiction in vacation.

SEC. 11. The judge of said court of common pleas, either in term time or in vacation, shall have full power to grant injunctions in all cases within the jurisdiction of said court, in which the circuit courts of this state may now grant the same in term, or the president judge in vacation, and to exercise all powers usual or necessary for courts of chancery in granting and enforcing restraining orders and injunctions, and to issue and cause to be executed, all process necessary to carry into effect the provisions of this section by attachment or otherwise according to the exigency of the case, and in conformity with the law and usages governing courts of chancery.

Appeals regulated.

SEC. 12. Appeals may be taken and writs of error prosecuted in the supreme court of this state in all original causes from the orders, judgments, and decrees of said court of common pleas in like manner, and in like cases, as the same may now be taken and prosecuted from the orders, judgments, and decrees of the circuit courts of this state.

Election as to appeals.

SEC. 13. In causes originating before justices of the peace, the party conceiving himself aggrieved by any judgment of said court of common pleas, may, at his election, for the purpose of correcting any error therein, take the same to the supreme court of this state, or to the circuit court of the said county of Tippecanoe, in like manner and subject to the same laws, rules, and regulations, by and under which judgments of the circuit courts may be taken to the supreme court by appeal or writ of error.

No. of terms, when held.

SEC. 14. There shall be four terms of said Tippecanoe court of common pleas held in each year, at the court house in the town of Lafayette in said county of Tippecanoe, commencing on the first Mondays of the months of January, April, July, and October, and to continue at each term so long as the business thereof may require.

Court may adjourn when courts conflict.

SEC. 15. In case any of said terms of said court of common pleas shall conflict with the terms of the circuit or probate court of said county of Tippecanoe, the judge of said court of common pleas shall adjourn the same to meet on the Monday succeeding the time limited by law for the term of such court with which it may conflict.

When sheriff may adjourn court.

SEC. 16. In case of the absence of the judge on the first day of any term, from sickness or any other cause, the sheriff of said county shall adjourn said court of common pleas, from day to day, for the first two days of said term, and if said judge shall still be absent, said sheriff shall then adjourn said court to the next regular

term, and all causes and matters depending therein shall thereby be continued by operation of law until the next regular term of said court.

SEC. 17. In all original law cases commenced in said court of common pleas, whenever the writ shall have been served and the declaration filed ten days before the first day of the term at which the writ is returnable such suit shall proceed to issue and trial at such term of all issues of law, whether the writ issued before or after filing the declaration.

When causes shall stand for trial.

SEC. 18. The pleadings may be filed and issue joined at any time before the calling of the cause, without any rule therefor, and when the cause is called, if no plea has been filed, the defendant may plead and the plaintiff reply, and so on within such time as to the court may seem reasonable until the issues of law or of fact shall be made up.

When and how issues to be made up.

SEC. 19. If either party shall fail to file his part of the pleadings when required, the court may direct judgment to be entered against him for such failure, unless for good cause shown, the court give him further day in that term, or at or before the next term to file such pleading on the payment of the costs of such postponement.

Discretion of court on failure to make issue.

SEC. 20. In all cases of judgment on demurrer, by *nihil dicit, non sum informatus*, or default, when the matter alleged as the foundation of the suit or charge depends upon calculation, or can be reduced to certainty by calculation, the court may give judgment for the debt or damages to which the party is entitled, or either party may have a writ of enquiry for the assessment of such debt or damages.

What cases court may try.

SEC. 21. All inquests for the assessment of damages, or debt and damages, may be taken at the term the default is taken, or at any subsequent term.

When inquest of damages may be taken.

SEC. 22. All issues of fact shall stand for trial at the term next succeeding that at which process was served and declaration filed, as provided in the preceding 17th section of this act, unless the parties shall consent to go to trial at the first term after service of process, and no issue of fact shall be changed after the term at which the same is made up, unless upon good cause shown upon affidavit, and the payment of all the costs up to the time of such change.

When issues stand for trial.

SEC. 23. All issues of fact to be tried by a jury, shall stand first for trial and in the order in which they are docketed; and any issue of fact may be tried, either by a jury, or, by the consent of the parties, by the court without the intervention of a jury.

Issues in the order docketed.



When plea to be verified by oath.

SEC. 24. In all actions upon contract upon any written instrument or record, if the plaintiff shall describe the written instrument or record in the declaration, unless the defendant verify his plea by affidavit, or annex thereunto an affidavit of merits, in such form and manner as said court of common pleas shall prescribe by rule, such plea shall not be allowed to be filed in said court.

Jurors, how selected.

SEC. 25. There shall be selected by the board of county commissioners of the county of Tippecanoe, at their June session annually, for said court of common pleas, forty-eight petit jurors, in the same manner as is now provided by law for the selection of grand and petit jurors for the circuit court, twelve of whom shall be designated for the July term, twelve for the October term, twelve for the January term, and twelve for the April term succeeding such selection.

Clerk may issue venire, when.

SEC. 26. Whenever there shall be any issues of fact to be tried by a jury, the clerk of said court of common pleas shall issue a venire for the twelve jurors designated for the next succeeding term as aforesaid.

When jurors may be excused.

SEC. 27. At the July term of said court, if it shall appear to the satisfaction of the court that any person summoned as a juror for such term, is actually engaged in farming, such person shall, if he request, be excused from attending as such juror, and his place shall be supplied as in the next section provided.

When by-standers jurors.

SEC. 28. In case the panel selected and summoned as aforesaid should be set aside for any cause, or there should be a deficiency of the number of jurors in attendance, or the panel should be absent consulting on their verdict, the court shall direct the sheriff to select the requisite number of jurors to make up a panel, or supply any deficiency from among the by-standers having the requisite qualifications.

Money to be deposited with clerk.

SEC. 29. In all original cases at law, except actions of ejectment and disseizin, the plaintiff shall deposit with the clerk, with the declaration or precipe the sum of three dollars, and in all chancery causes, and in actions of ejectment and disseizin, the complainant or plaintiff shall deposit with the clerk, with the bill or declaration, the sum of five dollars—which sum thus deposited shall be taxed with the costs against the unsuccessful party, and the same shall be paid over by the clerk to the judge of said court quarterly, who shall receipt therefor.

Amount of deposit in appeal from J. P.

SEC. 30. In all cases of appeal from the judgment of any justice of the peace to said court of common pleas, the party praying the same shall deposit with the jus-

tice from whose judgment such appeal shall be taken, the sum of three dollars, to be by such justice paid over to the clerk of said court of common pleas, on the filing of the appeal paper in such cause, which shall be paid over by said clerk and taxed with the costs in like manner as is provided in the preceding section; and no such appeal papers shall be filed, nor any writ issued, until such sum as is provided for in this and the preceding section shall have been first paid.

SEC. 31. In every case tried by a jury there shall be taxed up against the unsuccessful party, in favor of said county of Tippecanoe, the like jury fee as is now taxed in the circuit courts of this state, and the same shall be paid over and receipted for in like manner. Jurors and witnesses shall be entitled to the same pay, and be paid in the same manner as in the circuit court of said county, and all rules and provisions of law relative to the taxation of costs against the unsuccessful party in the circuit courts of this state, shall apply to, and be in full force in said court of common pleas.

SEC. 32. When there are two or more defendants in any cause commenced in the Tippecanoe court of common pleas, a part of whom shall reside in any county of this state other than said county of Tippecanoe, process shall issue to the county in which such defendant or defendants reside.

SEC. 33. In all local actions, where the cause of action shall accrue in and be local to said county of Tippecanoe, process may issue to any county in this state, whether there are any of said defendants residents of said county of Tippecanoe or not.

SEC. 34. The process of said court of common pleas shall be the same as is now used in the circuit courts of this state.

SEC. 35. The proceedings in said court of common pleas, including notice, publication, security for costs, docketing of causes and of judgments, making final records, pleading, taking depositions, practice at law and in equity, punishing for contempts, amendments, change of venue to the circuit court of any other county in the circuit in which the county of Tippecanoe is or may be situate, or to the circuit court of any other circuit, taxing costs, issuing executions to said county of Tippecanoe or any other county of the state, entering replevin bail upon judgments for the stay of executions, making and adopting rules of practice, and all other matters and things shall, except as in this act otherwise provided, be governed by the law now in force relating to like proceedings and things in the circuit courts of this state,



and said courts shall have all the powers conferred by law on said circuit courts in all civil cases within the jurisdiction of said Tippecanoe court of common pleas, except as in this act is otherwise provided.

Judgment,  
liens.

SEC. 36. Judgments and decrees rendered and made by said court of common pleas shall have the same lien, force and effect in the county of Tippecanoe, as the judgments and decrees of the Tippecanoe circuit court.

Transcripts of  
judgments.

SEC. 37. Transcripts of judgments and decrees of said court of common pleas may be filed and recorded in the other counties in this state in the same manner, and shall have the same lien, force and effect as the transcripts of the judgments and decrees of said Tippecanoe circuit court.

Law, how con-  
strued.

SEC. 38. This act shall be deemed and taken as a public act, and shall be liberally construed, and shall take effect and be in force from and after its passage, and it shall be, and the same is hereby made the duty of the secretary of state forthwith to cause to be filed in the clerk's office of the county of Tippecanoe, a certified copy of this act.

## CHAPTER XXXV.

An Act to amend the second article of the 30th chapter of the Revised Statutes of A. D. 1843, concerning the probate of wills and testaments.

[APPROVED FEBRUARY 15, 1848.]

Wills, how  
proven.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever hereafter it shall be made to appear to the clerk of the probate court of any county in this state, by the affidavit of any disinterested person, that the attesting witness to any last will and testament purporting to have been made by any volunteer private who has heretofore, or may hereafter serve in the Mexican war, (and who was at the time of his enrollment a resident citizen of this state,) are non-residents of the county or state in which the testator resided, that it shall be sufficient to establish and prove said last will or testament, by the proof of the handwriting of said testator, without requiring proof in any other manner of the death, absence or non-residence of said

attesting witnesses, than by the said affidavit; and that it shall be sufficient to prove said last will or testament before the clerk of the probate court of the county where the executor therein named and appointed may reside, and that when said will or testament is so proven or established it shall be admitted to record in the manner as last wills and testaments are now admitted to record, and shall have the same validity as other last wills and testaments; *Provided, however*, That the benefits of this act shall not extend to any other class of citizens of this state, than volunteer privates in the Mexican war.

Form and effect  
of affidavit.

SEC. 2. That the affidavit referred to in the first section of this act shall contain a statement of the facts: First, that the testator was a volunteer private in the Mexican war: Second, that he is, at the time of making said affidavit, dead, to the best of his (said affiant's) knowledge and belief; which said affidavit shall be taken and considered as prima facie evidence of the facts therein contained, so far as to admit said last will or testament to record in manner aforesaid; all laws coming within the purview of this act, be and the same are hereby repealed.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER XXXVI.

An Act to change the time of holding the probate court in Franklin county.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Franklin probate court shall hold its term on the fourth Mondays in March, June, September and December of each year.

SEC. 2. That all judicial process issued, or that may be issued, shall be returnable, and the parties, witnesses and jurors shall appear at the term fixed by this act.

SEC. 3. This act shall be in force from and after its passage.



## CHAPTER XXXVII.

An Act to allow parties to take depositions in actions at law after injunction granted.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no injunction heretofore or hereafter granted to stay proceedings at law, shall have the effect to prevent the party so enjoined from taking depositions in the cause or suit so enjoined; but such party may proceed to take depositions the same as if no injunction had been granted.

SEC. 2. This act shall be in force from and after its passage.

## CHAPTER XXXVIII.

An Act to change the time of holding the probate court in Dearborn county.

[APPROVED JANUARY 21, 1848.]

*Be it enacted by the General Assembly of the State of Indiana*, That the terms of the probate court of Dearborn county shall commence on the third Mondays of February, May, August, and November.

All laws and parts of laws contravening the provisions of this act are hereby repealed; and this act to be in force from and after its publication in the Indiana Register.

## CHAPTER XXXIX.

An Act releasing the right of the State to certain land in Hancock county, which was acquired by escheat.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, William Borman, of the county of Hancock, died intestate, seized in fee simple of a tract of land situated in Sugar Creek township, Hancock county, leaving neither widow or children, nor brothers or sisters, father nor mother in the United States, except Sophia Kregeon, wife of Arnest Kregeon, her present husband, she and her said husband being inhabitants of Hancock county, they being natives of Germany: AND WHEREAS, Said Arnest Kregeon, since the death of said Borman, has, with his wife, taken possession of said land, and filed his declaration of intentions of becoming a citizen of the United States under the laws of Congress: For remedy whereof,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the said State of Indiana do hereby release all the right of the estate by escheat to the said Arnest and wife.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER XL.

An Act to change the time of holding the probate court in the county of Allen, and to repeal certain acts therein named.

[APPROVED JANUARY 19, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the probate court for the county of Allen, shall hereafter commence its sessions on the third Monday in March, May, August, and November of each year, and shall hold its sessions two weeks at each term, if the business requires it, and no longer.

SEC. 2. All writs, processes, and notices which have been issued, or may hereafter issue, before the taking

Writs, &c.,  
when returnable.



effect of this act, relating to any matter in said court, are hereby made returnable to the first day of said court as fixed by this act, and shall be acted upon therein in the same manner as if this act had been in force at the time they were issued.

Repeal.

SEC. 3. That "An act relating to the probate court, in Allen county," approved January 2, 1847, and "An act changing the time of holding the probate court in the county of Allen, and for other purposes therein named," approved December 22, 1845, be, and the same are, hereby, repealed.

SEC. 4. This act to be in force from and after a copy of the same shall be filed in the office of the clerk of said county of Allen; and it shall be the duty of the Secretary of State to forward a copy to said clerk.

## CHAPTER XLI.

An Act to change the time of holding probate courts in Clark county.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the probate court of Clark county shall hold four terms in each year, commencing on the third Mondays of January, April, July, and October, and shall sit six days at each term, if the business shall require it.

SEC. 2. This act to be in force from and after the first day of February.

## CHAPTER XLII.

An Act authorizing the sale of the "Old Indiana State Prison."

[APPROVED FEBRUARY 15, 1849.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be and is hereby made the duty of the governor of the state to appoint a commissioner, whose duty it shall be to make sale of the lot of ground owned by said state, and situate in the town of Jeffersonville, Clark county, Indiana, known and designated as the 'Old Indiana State Prison.'

Governor to  
appoint com-  
missioner.

SEC. 2. It shall be the duty of said commissioner, after having given sixty days' notice thereof in one of the public newspapers, printed and published in the city of Louisville, Ky., and also in one of the public newspapers printed and published in the city of New Albany, and in Charlestown, Indiana, to sell said premises at the time and place designated in said notice to the highest and best bidder or bidders therefor, requiring said purchaser to pay one-third of the purchase money at the time of sale, and the residue in one, two, and three equal annual installments, with interest thereon from date, the purchaser giving bond and approved security for the payment of the same.

His duty.

SEC. 3. It is hereby made the duty of the governor of the state, so soon as the purchase money for said premises has been fully paid, to make and execute to the said purchaser, or to his heirs and assigns, a good and sufficient deed in fee simple, of all the right, title, interest, and claim of said state, in and to said premises, absolutely and forever.

Governor to  
make deed.

SEC. 4. Said commissioner, before making sale of said premises, shall make and execute a bond made payable to the State of Indiana, in such penalty and with such security as may be determined on and accepted of by the governor.

Commissioner  
to give bond.



## CHAPTER XLIII.

An Act in relation to the organization of the Senate and House of Representatives.

[APPROVED FEBRUARY 29, 1848.]

Secretary and auditor to organize House and Senate.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the secretary of state shall be authorized and required to discharge all the duties heretofore authorized and required to be discharged by the secretary of the senate in organizing the senate; and that the auditor of state shall be authorized and required to discharge all the duties heretofore authorized and required to be discharged by the clerk of the house of representatives in organizing the house of representatives.

When librarian to act.

SEC. 2. In case of the absence of the secretary of state the state librarian shall be authorized and required to discharge all the duties authorized and required by this act to be discharged by the secretary of state; and in case of the absence of the auditor of state the state librarian shall be authorized and required to discharge all the duties authorized and required by this act to be discharged by the auditor of state.

## CHAPTER XLIV.

An Act declaring certain words in section 43, chapter 16, of the Revised Statutes of 1843 a misprint.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the words 'and opening,' found in the second line from the bottom of section forty-three, chapter sixteen, of the Revised Statutes of 1843, be declared a misprint and stricken out accordingly.

## CHAPTER XLV.

An Act to amend article five of chapter forty-five of the Revised Code of 1843.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That article five of chapter forty-five of the Revised Code of 1843 be, and the same is hereby, amended as follows, to wit:

That in all cases when the rent demanded or the value of the annual rent of the premises of which possession is sought does not exceed fifty dollars, it shall be lawful for the landlord, his heirs, devisees, assigns, personal representatives, or the agent of any of them, he, she, or they, having determined the tenancy of said premises, or entitled himself or themselves to the possession of the same as provided in said article, to have the person against whom he or they may properly proceed removed from said premises on complaint made before any justice of the peace of the township in which said premises are situated, or if there should be no justice of the peace in said township, or none competent to act in such case, then such complaint may be made before a justice of any adjoining township of said county.

Landlord to make complaint.

SEC. 2. That upon complaint being made as provided in said article, it shall be lawful for the justice before whom the same is made to issue his warrant to any constable of the township or county in which the premises are situated, commanding him to summon the defendant, that he be and appear before said justice at a time appointed, not less than five nor more than ten days after the issuing of said process, and said summons may be served by said constable as provided in said article.

Justice to issue warrant.

SEC. 3. That such case shall be tried by said justice, or either party may demand a jury as in the trial of other actions; and if, upon such trial, the justice or the verdict of the jury shall be in favor of the plaintiff, said justice shall thereupon render a judgment for said plaintiff as provided in said article, and, if thereto required by said plaintiff, his agent, or attorney, shall enforce said judgment by a warrant or other process issued to any constable of said county, in the manner provided in said article, which warrant shall be executed by said constable in like manner as the sheriff is required to execute said warrant or other process by said article; and either party shall have the right of appeal as in other cases tried before justices of the peace.

Justice to try, or either party may have jury

Appeal.



Summons, how  
and when  
served.

SEC. 4. That the summons authorized by this act and the article to which this is amendatory shall in all cases be served as provided in said article, at least five days previous to the time appointed for trial.

SEC. 5. That all laws and parts of laws now in force coming in conflict with the provisions of this act be, and the same are hereby, repealed.

## CHAPTER XLVI.

An Act to amend chapter one of the Revised Statutes of 1843.

[APPROVED DECEMBER 7, 1847.]

Criminal juris-  
diction.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the proper courts of the several counties in this state bordering on the Ohio river, and on the Wabash river as far up as said river forms the boundary line between this state and the State of Illinois, shall have jurisdiction of all offences committed against the penal laws of this state on said rivers opposite to said counties respectively.

SEC. 2. Whenever any violation of the penal laws of this state shall be committed on either of the above named rivers opposite to the line dividing any two counties bordering thereon, or so near to said line that it may be doubtful on which side of said line the offence was committed, the proper courts of either of the counties adjoining said line may take cognizance of said offence.

## CHAPTER XLVII.

An Act to require the trustees of the Indiana University to report to the General Assembly.

[APPROVED JANUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the Trustees of the Indiana University to make annual report to said assembly prior to the second Monday in December, upon the condition of the university, the condition of the property real and personal belonging to the same, the course of instruction and discipline adopted by the trustees and pursued by the faculty, the number of students in attendance, their residence and age, the number sent by the different counties free of tuition, the proceedings and the by-laws of the trustees, and the state of the finances of the university.

## CHAPTER XLVIII.

An Act for the speedy completion of a portion of the Indiana Hospital of the Insane.

(APPROVED FEBRUARY 12, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the six thousand dollars authorized by section seven of an act entitled "an act for the further erection of the hospital for the insane, and for other purposes connected therewith," approved January 23, 1847, to be drawn out of the treasury by the commissioners of said hospital, shall not be retained by the treasurer of state out of hospital delinquencies, or revenues paid in for hospital purposes, under the assessment for the year 1847, as by said act provided.

SEC. 2. The said commissioners are hereby authorized to draw upon the treasurer of state for the amount of hospital funds provided by law, as the same shall be paid into the treasury, and if in the opinion of said commissioners it shall be necessary, the treasurer of state is hereby authorized to pay out of any moneys not other-

Amount not  
to be retained  
by treasurer.

Treasurer's  
duty.



wise appropriated, upon the order of said commissioners, the sum of eight thousand dollars, which sum shall be retained by said treasurer out of the revenue paid in for hospital purposes, under the assessment of the year 1848: *Provided*, That said treasurer shall be of the opinion that said sum of eight thousand dollars, or such part thereof as said commissioners may wish to draw remains in said treasury, unappropriated for other purposes.

When commissioners are authorized to borrow money.

SEC. 3. Should there not be a sufficiency in the treasury to pay and redeem the orders of said commissioners for the said sum of eight thousand dollars, as the same may be required by the commissioners, the said commissioners are hereby authorized to borrow in the name of the State of Indiana, the said sum of eight thousand dollars, or so much thereof as in their opinion may be necessary, to be paid out of the said hospital revenue, to be collected on the assessment of the year 1848, together with interest thereon, not to exceed six per centum per annum.

## CHAPTER XLIX.

An Act to authorize the people to vote for or against a tax for the support of Free Schools.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, Laws respecting common schools are the most important in a people's code:

AND WHEREAS, A system for the regulation and establishment of free common schools must of necessity be extensive and complex, in order to embrace and arrange all necessary points and provisions:

AND WHEREAS, The bill for the improvement of common schools was sent from the House to the Senate at a period so late, as to preclude thorough examination and deliberate action:

AND WHEREAS, The said bill, even if it should become a law, will not according to the provisions thereof, take effect until after the time appointed for the assembling of the next legislature; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the voters of the state shall at the annual election, on the first Monday in August, 1848, give their votes for or against the enactment of a law by the next legislature, for raising by taxation, an amount, which added to the present school funds, shall be sufficient to support free common schools in all the school districts in the state not less than three nor more than six months each year.

Voters to vote for or against common schools.

SEC. 2. The inspectors of elections at the several places of voting, shall propose to the voter presenting a ballot the question: "Are you in favor of free schools?" and those who are in favor of the enactment of a law for taxation as aforesaid, shall answer in the affirmative, and those who are against such enactment shall answer in the negative, which answers shall be duly recorded by the clerk of such election; and the result of such voting shall be certified and returned, as is provided in other cases of voting at general elections, to the secretary of state, and by him be certified to the Governor, who shall report the same to the next legislature on the first day of the session; and it shall be the duty of the several persons performing the duties of county auditor, to add to the poll books, furnished to the proper inspectors suitable columns for taking the vote aforesaid.

Duty of inspectors.

Duty of auditors.

## CHAPTER L.

An Act to amend an act entitled "An act to authorize the formation of voluntary associations, approved January 27, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled an act to authorize the formation of voluntary associations, approved January 27, 1847, be, and the same is hereby extended to embrace the order known by the name of the "Oriental Evanic Order of Brothers."



## CHAPTER LI.

An Act making specific appropriations for the year 1848.

[APPROVED FEBRUARY 17, 1848.]

Secretaries and  
clerks of Gen-  
eral Assembly.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the principal and assistant secretaries of the Senate, and the principal and assistant clerks of the House of Representatives shall each be allowed the sum of four dollars per day, for each day they may have served as such during the present session, and that such assistants as may have been employed, by any of the aforesaid secretaries or clerks, under any order of their respective branches of the General Assembly be allowed four dollars per day, for each day, while so employed, to be ascertained by such secretaries or clerks, and certified by the president of the Senate and the speaker of the House respectively.

Door-keepers  
and assistants.

SEC. 2. That the door keeper of the House of Representatives and the door keeper of the Senate shall each be allowed the sum of three dollars per day, to be certified by the presiding officers of the respective branches of the present General Assembly, and the assistant door keepers of the Senate and of the House of Representatives shall each be allowed three dollars per day, for each day they may have served as such, to be computed by their principals, and certified in the same manner as that of their principals is certified.

J. D. Furgason.

That John D. Ferguson be allowed four dollars per day, for every day he may have served as clerk to the committee of ways and means, at the present session of the General Assembly, to be certified by the speaker of the House of Representatives.

J. Bradley.

SEC. 4. That James Bradley be allowed the sum of fifteen dollars, for services rendered as clerk of the committee on roads, of the House of Representatives.

School com-  
mittee's clerks.

SEC. 5. That Samuel L. Crosby be allowed thirty dollars; Andrew M. Carnahan, twelve dollars; Charles Craft, ten dollars; Milo Gookings, six dollars; and John Rea, twelve dollars, for services as clerks of the committee appointed by the state common school convention to prepare a bill on the subject of common schools, to be presented to the governor and the present General Assembly.

Judiciary com-  
mittee.

SEC. 6. That the members of the judiciary committee of the House of Representatives be allowed the sum of one dollar and fifty cents per day each, for every day they may have served on said committee during the re-

cess of the General Assembly, to be certified by the speaker of the House of Representatives.

SEC. 7. That James M. Sleeth be allowed the sum J. M. Sleeth. of three dollars per day, for each day he may have served, as the executive messenger to the two branches of the General Assembly during the present session.

SEC. 8. That the sum of three hundred and sixty- Treasurer of State. two dollars and twenty-three cents be allowed the treasurer of state for improvements and repairs to the treasurer's house and office.

SEC. 9. That William Lee be allowed the sum of W. Lee. two dollars and fifty cents, the amount of freight paid by him on a package containing the rules and regulations of the state prison.

SEC. 10. That Michael Shea be allowed three dollars M. Shea. per day, for each day employed during the present session, in sawing wood, making fires in the governor's room and state library, lighting lamps, and other services, to be computed by the state librarian and certified by the governor.

SEC. 11. That Abram Bird be allowed ten dollars A. Bird. for shovel and tongs, and snuffers, furnished the House at the last session of the General Assembly.

SEC. 12. That William Sullivan be allowed the sum W. Sullivan. of seven dollars and fifty cents for services as justice of the peace before the committees of the House at the last and present session.

SEC. 13. That Alvin N. Blackledge be allowed the A. N. Black- sum of thirty dollars and fifty cents, his account as al- ledge. lowed by the committee on claims.

SEC. 14. That Stephen H. Taylor be allowed the S. H. Taylor. sum of six dollars for his services, and thirteen dollars traveling expenses, for going to Terre Haute to summon witnesses before the select committee in relation to certain charges made against the branch bank at Terre Haute.

SEC. 15. That William H. Anderson be allowed W. H. Ander- seven dollars for his services, and thirteen dollars and son. thirty cents for his expenses for going to Spencer and Bloomington to summon witnesses in the same case.

SEC. 16. That David Leach be allowed five dollars D. Leach. for his services, and eight dollars and seventy-five cents for his expenses for going to Spencer to summon witnesses in the same case.

SEC. 17. That Kellogg and Davidson be allowed four Kellogg and dollars and forty cents, for sundries, furnished for the Davidson. use of the House.

SEC. 18. That Morrison and Talbott be allowed the Morrison and Talbott.



sum of thirty-five dollars, forty-one cents, for stationery furnished the House during the present session.

Mansur and Furgason. SEC. 19. That Mansur and Furgason be allowed the sum of two dollars and thirteen cents for sundries furnished the House.

W. Youse. SEC. 20. That William Youse be allowed the sum of forty dollars, for services and expenses, in a trip to Logansport, under a resolution of the senate, as sergeant at arms.

W. Douglass, C. Warner, M. Lanigan. SEC. 21. That William Douglass, Charles Warner, and Michael Lanigan be each allowed the sum of one dollar and fifty cents for attendance on committees, during the vacation for 19 days, and for taking care of the hall during the same period.

A. Dunnington. SEC. 22. That Alexander Dunnington be allowed the sum of nine dollars for three days services as assistant door keeper in organizing the House at the present session.

Hood & Noble. SEC. 23. That Hood and Noble be allowed the sum of two dollars and eighty-three cents, for pens and stationery, furnished during the present session.

T. Sinex. SEC. 24. That Thomas Sinex be allowed the sum of one hundred and forty-eight dollars for labor and materials for putting up hospital for the volunteers at Camp Whitcomb, for medicine chest, and other services, then rendered.

E. Kortzman. SEC. 25. That Eva Kortzman be allowed the sum of fifty-seven dollars and fifty cents for boarding and attention to the volunteers in the 1st, 2d, and 3d regiments, when stationed at Camp Whitcomb.

F. Clark. SEC. 26. That Tilghman Clark be allowed sixty-five dollars and fifty cents, for boarding and attention to sick volunteers of the 1st, 2d, and 3d regiments, during the summer of 1846, while they were encamped at Camp Whitcomb.

Floyd county. SEC. 27. That eighty-seven dollars and thirteen cents be allowed the county of Floyd, for money paid out of the county treasury for sick and diseased volunteers in 1846, at Camp Whitcomb, to be paid to the order of the county treasurer of said county.

S. Fisher. SEC. 28. That Stearns Fisher be allowed twenty dollars for his survey and estimates of the Central Canal, ordered by the General Assembly.

H. Perry. SEC. 29. That Harvey Perry be allowed forty dollars for cleaning and keeping in order the buildings in the state house enclosure.

B. Pottage. SEC. 30. That Benjamin Pottage be allowed the sum of fifty-six cents for screws furnished for putting locks on the gates in the state house yard.

SEC. 31. That Robertson M. Farmer be allowed R. M. Farmer ninety-five dollars and seven cents for boarding the volunteers in the Bloomington company of Rough and Ready Guards while said company was being raised.

SEC. 32. That Weaver and Williams be allowed the sum of seven dollars for furnishing locks for putting on the doors of the state house and the gates in the state house yard, and for services in hanging the same. Weaver and Williams.

SEC. 33. That two dollars be allowed Paris C. Dunning, president of the Senate, for postage on communications addressed to him on legislative business. P. C. Dunning.

SEC. 34. That John B. Stump be allowed thirty-three dollars for eleven days' services as woodman for the present session. J. B. Stump.

SEC. 35. That Amory Kinney be allowed thirty-six dollars for twenty-one days' services. A. Kinney.

SEC. 36. That C. and J. Cox be allowed the sum of twelve dollars and forty cents for articles of furniture for the use of the General Assembly. C. & J. Cox.

SEC. 37. That M. S. Ward be allowed the sum of fifteen dollars for his traveling expenses to and from the seat of government on account of the recess. M. S. Ward.

SEC. 38. That Peter Daggy be allowed the sum of fifteen dollars for his traveling expenses to and from the seat of government on account of the recess. P. Daggy.

SEC. 39. That Andrew J. Hay be allowed the sum of fifteen dollars for his traveling expenses to and from the seat of government on account of the recess. A. J. Hay.

SEC. 40. That S. Tufts be allowed the sum of fifteen dollars for his traveling expenses to and from the seat of government on account of the recess. S. Tufts.

SEC. 41. That Stephen H. Taylor be allowed the sum of ten dollars for his traveling expenses to and from the seat of government on account of the recess. S. H. Taylor.

SEC. 42. That Thornton Triplett be allowed the sum of fifteen dollars for his traveling expenses to and from the seat of government on account of the recess. T. Triplett.

SEC. 43. That Richard Rousseau be allowed the sum of four dollars per day during the time he was employed as clerk of the judiciary committee, to be certified by the chairman thereof. R. Rousseau.

SEC. 44. That David Creighead be allowed the sum of nine dollars and eighty-five cents for sundries, stationery, &c., furnished the present General Assembly. D. Craighead.

SEC. 45. That Vance Noel and Co. be allowed the sum of seventy dollars and thirty-one cents for sundries furnished for the use of the present General Assembly. Noel & Co.

SEC. 46. That H. and H. Brown, for services rendered in prosecuting Buckhartt and Bass on a charge H. and H. Brown.



of stealing property from the state house, be allowed the sum of ten dollars.

J. Kyle. SEC. 47. That John Kyle be allowed the sum of one dollar for repairing the windlass for raising wood.

W. A. Porter. SEC. 48. That William A. Porter be allowed the sum of two dollars for postage on letters, newspapers and documents, advanced by him as speaker of the House.

Secretary of Senate and clerk of House. SEC. 49. That the principal secretary of the Senate and the principal clerk of the House be each allowed fifty dollars for indexing the journals of the respective Houses at the present session of the General Assembly.

S. L. Crosby. SEC. 50. That Samuel L. Crosby be allowed fifteen dollars for five days' services as clerk of the committee on education.

J. Rider. SEC. 51. That John Rider be allowed fifteen dollars for traveling expenses as assistant doorkeeper of the House.

J. D. Defrees. SEC. 52. That John D. Defrees, editor of the Indiana State Journal, be allowed three hundred and fifty-six dollars for papers furnished the Senate and House of Representatives at the present session.

Chapmans and Spann. SEC. 53. That Chapmans and Spann, editors of the State Sentinel, be allowed three hundred and fifty-six dollars for papers furnished the Senate and House of Representatives at the present session.

W. Youse. SEC. 54. That William Youse, sergeant-at-arms of the Senate, and James M. Sleeth, messenger of his excellency the governor to both Houses of the General Assembly during the present session, be allowed the sum of fifteen dollars each for traveling expenses in going from and returning to the capital during the recess.

Secretaries and doorkeepers. SEC. 55. That the principal and assistant secretaries of the Senate, and such assistants as they may have employed under any order of the Senate, and the doorkeeper and assistant doorkeepers of the Senate, not residing at or in the vicinity of Indianapolis, be allowed the sum of fifteen dollars each for traveling expenses in going from and returning to the capital during the recess.

W. Youse. SEC. 56. That William Youse be allowed the sum of three dollars per day for each day he may have served as sergeant-at-arms of the Senate during the present session of the legislature, to be certified by the president of the Senate.

Noel & Co. SEC. 57. That S. V. B. Noel and Co. be allowed the sum of thirty dollars and thirty-one cents for candles and other articles furnished for the use of the Senate at the present session.

SEC. 58. That Weaver and Williams be allowed the sum of eighteen dollars and twenty-five cents for carpenters' work done for the use of the Senate during the present session. Weaver and Williams.

SEC. 59. That Kellogg and Davidson be allowed the sum of two dollars and eighty cents for articles furnished for the use of the Senate during the present session. Kellogg and Davidson.

SEC. 60. That W. B. Preston and Co. be allowed one dollar and fifty cents for articles furnished for the use of the Senate at the present session. Preston & Co.

SEC. 61. That J. Roe and Co. be allowed the sum of two dollars and fifty cents for tape furnished for the use of the Senate at the present session. Roe & Co.

SEC. 62. That David Craighead be allowed two dollars and sixty-two cents for articles furnished for the use of the Senate at the present session. D. Craighead.

SEC. 63. That Edward Outland be allowed the sum of twenty dollars for services rendered the General Assembly at the present session. E. Outland.

SEC. 64. That the legal representatives of T. B. Kinder, deceased, be allowed the sum of one hundred and fifty dollars for services as private secretary to the governor during the years 1843 and 1844, and the said legal representatives are hereby requested to use this money for the purpose of erecting a tomb-stone to the memory of the lamented Kinder. T. B. Kinder's heirs.

SEC. 65. That the officers of the Senate and House of Representatives shall not be allowed or paid for services during the recess of the legislature at its adjournment at the present session, except so far as is particularly provided in the previous sections of this act; and that an amount equal to the pay of eight enrolling clerks for twelve days each, at three dollars per day each, be allowed the secretary of state to pay for extra enrolling clerks at the present session. Officers of General Assembly.

SEC. 66. This act to be in force from and after its passage.



## CHAPTER LII.

An Act to regulate agencies of Foreign Insurance Companies.

[APPROVED FEBRUARY 16, 1848.]

Agents to deposit authority with clerk.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every person or persons who shall attempt to act in this State as an agent or agents for, or in behalf of any insurance company not incorporated by an act of the legislature of this state, shall, before entering upon the duties of his or their agency, or in case he or they have already entered upon said duties, then on or before the first day of October, 1848, deposit with the clerk of the circuit court in the county in which he or they propose to do business, or are already doing business, a copy of the power of attorney, commission or other authority held by him or them as agent or agents of such company aforesaid, which papers shall be subject to the inspection of any person desiring the same.

Agents to file resolution, &amp;c.

SEC. 2. That the agent or agents of any such company aforesaid, shall also be required before commencing the business of said agency, or in case he or they have already commenced said business, then on or before the first day of October eighteen hundred and forty-eight, to furnish to the said clerk of the circuit court a resolution or order of the board of directors of the company for which he or they may propose to act, or are already acting, duly authenticated, authorizing any citizen or person residing in the State of Indiana, or elsewhere, having a claim against any such company aforesaid, growing out of a contract of insurance, made with the agent or agents of any such company aforesaid, doing business in this state, to sue for the same in any court in said state having competent jurisdiction; and further authorizing service of process on said agent or agents to be sufficiently binding on said company to abide the issue of said suit, and that such service shall authorize judgments in the same manner that judgments are taken against private individuals; and it is hereby enacted that the service of process on the said agent or agents in any action commenced against said company shall be deemed a service on the company, and shall authorize the same judgments and proceedings as in cases of other actions at law; the process shall be served and returned in the same manner as if the action or actions were against the agent or agents personally.

Person receiving money, &amp;c.

SEC. 3. That any person or persons, or firm, in this state, who shall receive or receipt for any moneys on

account of, or for any contract of insurance made by him or them for any such insurance company aforesaid, or who shall receive or receipt for money from other persons to be transmitted to any such company aforesaid, knowing that such money had been paid for a policy or policies of insurance, although such policy or policies may not be signed by him or them as agent or agents of such company; or who shall in anywise directly or indirectly make or cause to be made any contract or contracts of insurance for or on account of any such insurance company aforesaid, shall be deemed to all intents and purposes an agent or agents for such company, and shall be subject and liable to all the provisions, regulations, and penalties of this act.

SEC. 4. That any person or persons who shall act as the agent or agents of any such company aforesaid, and who shall neglect or refuse to comply with any of the provisions contained in this act, shall, upon presentment or indictment, be fined in any sum not less than fifty dollars nor more than five hundred dollars.

SEC. 5. That this act shall be in force from and after its passage.

## CHAPTER LIII.

An Act to amend the 25th section of article 2, of chapter 25 of the Revised Statutes of 1843.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 25th section of article 2d of chapter 25th of the Revised Statutes of 1843, be so amended that the trustees of any religious society, elected under the authority of said section, may take and hold by purchase, grant, device, or donation, any town lots or lands not exceeding in quantity one hundred and sixty acres, for the purpose of a church, parsonage &c.

SEC. 2. This act to be in force from and after its passage.



## CHAPTER LIV.

An Act to amend "an act to provide for the election of Prosecuting Attorney by the people," approved January 27th 1847.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in the counties in which there is no attorney at law residing who is licensed and qualified as by said act required, or who will accept said office of prosecuting attorney, or is competent, the qualified voters of such county may elect such prosecuting attorney in any other county; any thing in the act to which this is amendatory to the contrary notwithstanding.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LV.

An Act, regulating special elections ordered by the Governor.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter all special elections ordered by the Governor to fill the vacancy by death or resignation of a member of either branch of the General Assembly, the several inspectors shall be required to make their returns of said elections on the third day thereafter, except said third or return day should be Sunday, in that case the Monday following shall be the return day.

SEC. 2. So soon as the board of canvassers declare an election the clerk shall be authorized to issue to the person so declared elected, his certificate of election.

SEC. 3. This act to take effect and be in force from and after its passage.

## [CHAPTER LVI.]

An Act to change the time of holding Probate Court in the county of Daviess.

[APPROVED FEBRUARY 9, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the probate courts of held. Daviess county shall be holden on the second Mondays of March, June, September, and December, instead of the first Mondays of said months. All process of every description issued or executed, and returnable on the said first Mondays of the months aforesaid, shall be returned on the said second Mondays thereof, and shall be valid in all respects as they would be were no change made hereby.

SEC. 2. This act to take effect from and after its passage, and the secretary of state shall forward a certified copy thereof to the clerk's office of said county.

## CHAPTER LVII.

An Act declaring a misprint in "an act to amend the practice in the Probate Court," approved January 28, 1847.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the word "thirteenth," where it occurs in section first of an act entitled "an act to amend the practice in the probate court," approved January 28, 1847, be and the same is hereby declared to be a misprint, and the said section first of said act, shall be taken and construed in all courts of justice to repeal the two hundred and seventy-first section of the "thirtieth" chapter of the Revised Statutes of 1843.

SEC. 2. This act shall take effect and be force from and after its passage.



## CHAPTER LVIII.

An Act in regard to Bonds of County Officers.

[APPROVED FEBRUARY 16, 1848.]

**SECTION 1.** *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the board doing business in each county in this state, at their next session after the publication of this act, and annually thereafter at their March session, to examine the bonds executed by the clerk, sheriff, auditor, treasurer, and school commissioner in their county, and see if any change has taken place with regard to the ability of the securities on any such bond or bonds, and ascertain, if possible, if the securities on any such bond are good and sufficient for the full amount stipulated in said bond.

**SEC. 2.** To enable said board to obtain the information required, they shall have the right, when they deem it necessary, to summon before them any or all such sureties, and require him or them to answer under oath such questions with regard to his or their property, as to them, the said board, may seem right and proper for the purpose aforesaid.

**SEC. 3.** If said board after said examination find that no change has taken place, and that the securities are good and sufficient for the amount stated in said bond, they shall cause to be entered on the record of their proceedings their approval of said bond.

**SEC. 4.** Said board shall not approve of said bond until they are clearly satisfied that the securities on said bond own free and unincumbered real estate, and are worth, over all liabilities, real property to the amount stipulated in said bond.

**SEC. 5.** After the examination of any such bond, should the board doing county business come to the conclusion that the securities thereto are not sufficient according to the fourth section of this act, then said board shall enter their disapproval on the record of their proceedings, and give the officer notice of the same; and it shall be, and the same is hereby made the duty of said officer, to give additional security, or file a new bond, within thirty days after notice is served, that the board doing county business have disapproved of his bond then on file.

**SEC. 6.** And in all cases where such officer shall give additional surety, the individuals offering themselves as such surety shall sign their names and affix their seals to the bonds originally filed by such officer, and shall to all intents and purposes in law and equity be bound by

the stipulations in said bond as fully as if they had affixed their names and seals thereto at the time said officer and his former sureties executed and delivered the same, and they shall have the same rights, and be subject to the same liabilities in law and equity, both as regards themselves and the former sureties on said bond, as they would have been entitled or subjected to in case they had executed said bond at the same time it was executed by such officer and his former sureties; and no such signing said bond by said additional sureties shall render the same void or voidable as to such officer or the original sureties thereto, but the same shall be valid and binding in law and equity upon such officer, and upon his original and additional sureties, precisely as if the same had been signed, sealed and delivered by such officer, and all of said sureties before the same was first filed and accepted.

**SEC. 7.** And in the event of any officer as aforesaid, on being so required, filing a new bond, nothing in this act shall be so construed as to release said officer or the said sureties on his bond first filed from any misfeasance, mal-feasance or non-feasance on the part of such officer, either before or after the filing of such new bond, but the said bond first filed shall remain in full force, and be binding in law and equity as if no such new bond had been executed.

**SEC. 8.** And in the event of such officer giving such new bond as aforesaid, the sureties in said new bond shall be held liable for any official mis-feasance, mal-feasance, or non-feasance on the part of such officer, either before or after the filing of such new bond, and shall in all respects have the same rights, and be subject to the same liabilities as if, instead of signing such new bond, they had executed, as additional sureties, the bond first given by such officer.

**SEC. 9.** And should any such officer whose bond has been disapproved as aforesaid, after due notice, fail and refuse, within thirty days after such notice, to give additional sureties, or file a new bond according to the provisions of this act, and the order of the board doing county business, then and in that event the office which said officer held and filled, shall be by this act declared vacated, and the office so vacated shall be filled by the proper authority, as in case of death or resignation.

**SEC. 19.** All laws and parts of laws contrary to any of the provisions of this act are hereby repealed.

**SEC. 11.** This act to be in force and take effect from and after its passage and publication in each county of this state.



## CHAPTER LIX.

An Act authorizing county auditors to take acknowledgments of deeds in certain cases.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditors of the several counties of this state be, and they are hereby authorized to take acknowledgments of deeds and mortgages executed for the security of all funds, by such auditors authorized to be loaned.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LX.

An Act to extend the February term of the probate court in the County of Washington.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the fortieth section of the Revised Statutes of 1843 be so amended as to authorize the probate court in Washington county to sit twelve days at each February term thereof, if the business shall require it.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LXI.

An Act repealing so much of section 233 of chapter 30 of the Revised Statutes of 1843 as requires the probate court to set the time of sales of real estate by executors and administrators.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of section two hundred and thirty-three of chapter thirty of the Revised Statutes of 1843, as requires the probate court to set the time when a sale of real estate by an executor or administrator shall be made, be, and the same is hereby repealed; and it is made the duty of such executor or administrator to make said sale on or before the first day of the next term of the court from which said order was obtained.

SEC. 2. In all sales of real estate, heretofore made pursuant to an order of a probate court where the court failed to fix the time of such sale, said sale shall be, and is declared to be equally valid as though the time of sale had been fixed by the probate court.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER LXII

An Act relative to the probate court of Monroe County.

[APPROVED FEBRUARY 8, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the probate court of Monroe county shall sit two weeks at each term thereof, in the year eighteen hundred and forty-eight.

SEC. 2. That the February term of said court, in the year 1848, shall commence its session on the third Monday in said month.

SEC. 3. That so much of the law as fixes the second Monday in said month and year as the time for the commencement of the term thereof, be, and the same is hereby repealed.

SEC. 4. This act shall be in force from and after its passage.



## CHAPTER LXIII.

An Act authorizing the boards doing county business to continue in session ten days at their March and June session, in certain counties therein named.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the boards doing county business in Dearborn, Shelby, Laporte and Rush counties in this state shall have the right to continue in session ten days at their March and June sessions, provided the business thereof require.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LXIV.

An Act to repeal a part of an act entitled "an act to change the time of holding the probate court in Ripley county."

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section two of an act entitled "an act to change the time of holding the probate court in Ripley county," approved January 21, 1847, be and the same is hereby repealed.

SEC. 2. The probate judge of the said county of Ripley shall hereafter receive for his services as such judge the sum of two dollars per day, and no more.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER LXV.

An Act making general appropriations for the year 1848.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That, for the purpose of meeting the expenses of the state government for the year 1848, the following sums are hereby appropriated, to-wit: For the General Assembly, thirty thousand dollars; for the judiciary, fifteen thousand dollars; for the executive officers, four thousand seven hundred dollars; for public printing and binding laws, eight thousand dollars; for probate judges four thousand five hundred dollars; for specific appropriations, five thousand dollars; for stationery and fuel, two thousand five hundred dollars; for conveying convicts to the state prison, two thousand five hundred dollars; for the contingent fund, five hundred dollars; for prosecuting attorneys, one thousand dollars; for distributing laws and journals, four hundred and fifty dollars; for the state library, three hundred dollars; for the librarian's salary, five hundred dollars; for the expenses of the militia, two hundred dollars; for the state house, (to be expended under the direction of the librarian,) the sum of five hundred dollars; for the governor's house, two hundred dollars; for the house in [the] governor's circle, one hundred dollars; for transportation and preservation of public arms, three hundred dollars.

SEC. 2. That the sums respectively assessed by the revenue law of this session for the benefit of the Indiana hospital for the insane, the asylum for the deaf and dumb, and for the education of the blind, be and the same are hereby appropriated, to be expended under the respective laws on those subjects.

SEC. 3. This act shall be in force from and after its passage.



## CHAPTER LXVI.

An Act concerning the duties of clerks of circuit courts of this state.

[APPROVED FEBRUARY 12, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever it shall become necessary to perfect the papers of any person claiming to have been a soldier of the United States in the present war with Mexico, in obtaining bounty lands, it shall be the duty of the clerk of the circuit court of the proper county to attest and seal the same in due form of law, for which certificate and seal he shall not be allowed to charge any fee or reward.

SEC. 2. This act to take effect and be in force from and after its passage and publication in the Indiana Journal.

## CHAPTER LXVII.

An Act for the relief of tax payers of this state.

[APPROVED FEBRUARY 15, 1848.]

Duty of boards of equalization. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it is hereby made the duty of the boards of equalization in the several counties in this state, at their next session, to make such changes and alterations in the assessment of the real estate that has been injured by high water, as justice and the circumstances of the case may require.

Owners of land right to hang gates. SEC. 2. That in places where the fences have been washed away by the high water at the side or sides of any public road, the owner or owners of land so situate may have the right, and the right is hereby granted, in cases when it is not convenient for the owner or owners to fence out the road, to hang gates on said road, convenient to open and shut, for one year, said gates to be kept in good repair by the owner or owners; and it is hereby made the duty of the boards doing county business in the counties aforesaid to see that this section is complied with to as little inconvenience to the public as possible.

Duty of county boards.

under the circumstances; and in any case when in the opinion of the board they shall decide, after proper examination, that any said person or persons shall not be entitled to the benefit or privilege of continuing said gates up for the full term of one year, then they shall order the road to be opened and give notice according to law.

SEC. 2. This act shall be in force from and after its passage and its publication in the Indiana State Journal.

## CHAPTER LXVIII.

An Act to encourage the organization of fire companies.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person who is now, or shall hereafter become an active member of any fire engine, hook and ladder, hose, or other company for the extinguishment of fire, or the protection of property at fires, now existing and under the control of the corporate authorities of any city or incorporated town, containing seventy voters, within this state, or of any such company which shall hereafter be organized under, and subject to the authorities of any city or town as aforesaid, shall, during the time he shall continue to be an acting member of such company, be exempted from the performance of military duty in time of peace, and from serving as a juror: *Provided*, That nothing herein contained shall be so construed as to diminish any privileges now allowed by any law of this state, or any ordinance or by-law of any city or incorporated town in this state, to any member of any fire company in this state, but it shall be considered as conferring additional privileges.

SEC. 2. That this act take effect and be in force from and after its passage.



## CHAPTER LXIX.

An Act in relation to the saline lands in this state.

[APPROVED FEBRUARY 16, 1848.]

Saline lands  
taken for stock  
in the state  
bank.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall and may be lawful for any person or persons indebted to the State of Indiana for saline lands, to transfer to the state any stock in any branch in the state bank of Indiana, in whole or part payments for the same.

The manner  
of assigning  
stock.

SEC. 2. That when any person desirous of paying for any tract or parcel of saline lands in this state, in stock of the bank aforesaid, he, she, or they shall assign and transfer the stock on the books of the bank to the State of Indiana, and take the certificate of the cashier of the said branch on the books of which said transfer shall be made, stating the same; which said certificate shall be received and taken as cash by any commissioner or superintendent of the saline lands of this state, in payment for the amount due on said land, either in whole or in part.

SEC. 3. This act shall take effect and be in force from and after its passage.

## CHAPTER LXX.

An Act in relation to the duties of auditor of state and commissioner of the sinking fund in certain cases herein named.

[APPROVED FEBRUARY 14, 1848.]

Duty of audi-  
tor.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter it shall be the duty of the auditor of state, whenever lands or town lots, mortgaged to the state to secure the payment of any of the trust or other funds in his charge, and are subsequently purchased in by the state for the benefit of such trust fund, to make out a certified list of such lands or town lots, and the name of the mortgagor and transmit the same to the auditor of the county in which said lands or town lots are situated; and it shall also be the

further duty of the auditor of state, in like manner, to report to county auditors immediately, upon the sale of any such lands or town lots, with the name of the purchaser, so that the same may be placed on the tax roll of his county; in all counties where the office of auditor is abolished, the same shall be transmitted to the clerk of said county.

SEC. 2. That it shall, in like manner, be made the duty of the commissioners of the sinking fund to report to the proper county auditors all the purchases of lands or town lots made by them for the non-payment of principal or interest on mortgaged premises, and also of the re-sale of the same, so often as either may occur, with a clear description of the premises and the name of the mortgagor or purchaser, as the case may be, in the same manner as is above required of the auditor of state, in the first section of this act.

Duty of com-  
missioners.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER LXXI.

An Act changing the time of holding the Probate Courts in the Counties of Jefferson, Switzerland and Ohio.

[APPROVED JANUARY 24, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the probate courts within and for the county of Jefferson shall hereafter be commenced and holden as follows, to-wit: On the second Monday of February, the third Monday of May, the second Monday of August, and the second Monday of November, in each year, and it shall sit two weeks in each term if the business thereof shall require it.

Courts when  
held in Jeff-  
erson.

SEC. 2. The probate courts within and for the county of Switzerland shall hereafter be commenced and holden as follows, to-wit: On the second Monday of March, the second Monday of June, the third Monday of September, and the fourth Monday of November in each year, and shall sit six days at each term, if the business thereof shall require it.

When held in  
Switzerland.

SEC. 3. The probate courts within and for the county of Ohio, shall be continued and holden as follows, to-



When held in  
Ohio.

wit: On the first Monday of February, the third Monday of May, the second Monday of August, and the fourth Monday of November in each year, and shall sit six days at each term if the business thereof shall require it.

Process, &c.,  
when returnable.

SEC. 4. All writs, notices, citations, rules and all process of every kind which may have been issued or served before the taking effect of this act, in relation to matters now pending, or to be pending in said courts in said counties, are hereby made returnable to the first day of each term as above mentioned; and all suits, motions, rules, citations and other proceedings, which at the time of taking effect of this act shall be pending in said courts, shall be acted upon therein in the same manner, as if this act had been in force at the time they were issued, commenced, taken or instituted.

SEC. 5. This act shall take effect and be in force from and after its passage and publication in the Madison Banner, the Indiana Palladium, and the Indiana Blade; and it is hereby made the duty of the secretary of state to cause the publication thereof to be made accordingly.

## CHAPTER LXXII.

An Act to authorize the Governor, Auditor, and Treasurer of State to borrow a sum of money not exceeding ninety-five thousand dollars to pay the interest due on the funded debt on the 1st day of January, 1848.

[APPROVED DECEMBER 16, 1848.]

Loan authorized.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the treasurer, auditor, and governor of state, be authorized to borrow from the branches of the state bank of Indiana, any sum not to exceed ninety-five thousand dollars, which sum so borrowed shall be appropriated to the payment of the installment of interest due on the funded debt of January 1st 1848.

How and  
when be paid.

SEC. 2. *Be it further enacted*, That said money shall be repaid to such banks as may lend the same out of any money in the treasury at any time unappropriated, and the whole shall be refunded by the first of April 1848.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER LXXIII.

An Act changing the time of holding courts in the county of Knox.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the probate courts of the county of Knox shall be holden on the second Monday of March, June, September and December, instead of the days now fixed by law: *Provided*, That nothing in this act shall be so construed as to change the time of holding the February term of the present year 1848.

SEC. 2. All process of every description issued, served or executed with a view to said courts being held at a time different from that herein provided, shall be construed in all things as having reference to the provisions of this act, and shall be valid in all respects as they would be were no change herein created.

SEC. 3. This act to take effect from and after its passage, and the secretary of state shall forward a certified copy of this act to the clerk's office of said county, and a copy for publication in the Vincennes Gazette and Western Sun.

## CHAPTER LXXIV.

An Act to raise a revenue for state purposes for the year 1848.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That a tax for state purposes, of twenty-five cents on each one hundred dollars of the value of all property entered for taxation in the general list of taxable, and seventy-five cents on each poll subject by law to taxations, shall be, and is hereby authorized and directed to be levied for the current year one thousand eight hundred and forty-eight, and which shall be assessed, levied and collected, according to law.

SEC. 2. That in addition to the above there shall be assessed, levied, and collected on each one hundred dollars of the value of all property entered for taxation as

Additional tax  
for what purpose.



aforesaid, the following sums to-wit: One cent and seven and one-half mills for the Indiana hospital of insane; two cents and two and one-half mills for the deaf and dumb asylum; and one cent for the education of the blind; and it is hereby made the duty of the treasurer of state, to set apart from the gross revenue paid into his office for the year aforesaid, the amounts in this section contemplated for the purposes above specified.

How accounted for.

SEC. 3. It shall not be necessary for the county auditors and county treasurers, in the assessment and collection of the revenue provided for in the 2d section of this act, to keep separate accounts of the amounts collected for the purposes named in said section; and it shall be sufficient for the same to be placed and accounted for in the gross amount of the state revenue for said year.

SEC. 4. This act shall take effect and be in force from and after its passage.

## CHAPTER LXXV.

An Act authorizing the State Librarian to procure a suitable book in which to record the names of volunteers from the State of Indiana.

[APPROVED FEBRUARY 15, 1848.]

Librarian's duty.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the State Librarian be, and he is hereby required to procure a suitable book in which he shall cause to be recorded the names of the commissioned and non-commissioned officers and privates of the State of Indiana, who volunteered their services to the General Government in the present war with the republic of Mexico.

Further duties of.

SEC. 2. That in making such record it shall be the duty of the Librarian to designate in appropriate columns the name, rank, age, occupation and residence of each of said volunteers, also the term of service, the date of discharge, and the causes thereof, whether from sickness, wounds in battle, expiration of term of service, or otherwise.

SEC. 3. He shall also designate in an appropriate column, the death of any volunteer, and the cause

thereof, whether from sickness, killed in battle or otherwise.

SEC. 4. That in making such record it shall be the duty of the librarian to commence with the first regiment, recording the names of the colonel, lieutenant colonel and major thereof; then to proceed with the several companies composing said regiment, commencing with company A, until the record of the regiment is complete, observing the same order with the other regiments.

SEC. 5. The said record shall be deposited in the State Library, and open to the inspection of all.

SEC. 6. This act to take effect and be in force from and after its passage.

## CHAPTER LXXVI.

An Act exempting the property of the blind and deaf and dumb persons from taxation.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no property belonging to any blind or deaf and dumb person in this state shall be subject to taxation for state, county, road or other purpose whatever, unless the same shall exceed the sum of five hundred dollars in value, in which case the excess over and above the sum of five hundred dollars in value only shall be taxed.

SEC. 2. All blind and deaf and dumb persons are hereby exempt from the payment of a poll tax and from performing labor upon public highways.

SEC. 3. This act to take effect and be in force from and after its passage.



## CHAPTER LXXVII.

An Act to amend sections 134 and 137 of chapter 37 of the Revised Statutes.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 134 of chapter 37 of the Revised Statutes be amended by inserting the word "clerk," instead of sheriff, wherever the same occurs in said section.

SEC. 2. It shall be the duty of the said clerk of the supreme court whenever he shall deliver any such writ, process, rule or order, as is mentioned in the said 134th section, to the sheriff of the supreme court, to pay to the said sheriff the amount of the postage required for the transmission of the said writ, process, rule, or order, and to pay to the said sheriff, upon the return thereof, the amount of postage charged thereon.

SEC. 3. That so much of section 137 of the said chapter as gives to the injured party a right of action against the sheriff of the supreme court and his securities, be, and the same is hereby repealed.

SEC. 4. This act to be in force from and after its passage.

## CHAPTER LXXVIII.

An Act to amend the 22d section of an act of the Revised Statutes entitled "an act for the relief of the poor,"

[APPROVED FEBRUARY 11, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the 22d section as relates to the pauper being sent or conveyed back at the expense of the county, be so amended as to require him or her (as the case may be) to be conveyed back to their former place of residence at the expense of the county of their original residence.

SEC. 2. *And be it further enacted*, That any person moving or causing to be moved or conveyed any pauper or paupers from one county to the other whilst a county

charge, shall forfeit and pay the sum of twenty-five dollars to be recovered by an action of debt.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER LXXIX.

An Act extending the time for holding the several terms of the probate court of Madison county.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for the probate court of Madison county, at any term thereof, to continue in session for two weeks if the business thereof shall require it.

SEC. 2. It shall be lawful for the probate judge of said county to grant writs of *habeas corpus*, and to hear and determine the same in the same manner, and to the same extent that associate judges are by law authorized to do.

SEC. 3. The board of commissioners of Madison county may, in their discretion, allow the probate judge of said county (in addition to the per diem allowance by law) a sum not exceeding one dollar per day, which additional allowance shall be paid out of the county treasury of said county of Madison.

SEC. 4. This act to take effect and be in force from and after its passage and publication in the Indiana Journal.



## CHAPTER LXXX.

An Act to fix the time of holding the probate courts in the county of Putnam.

[APPROVED FEBRUARY 14, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the probate courts of the county of Putnam shall hereafter be holden on the second Mondays of February and August, and on the third Mondays of May and November of each year.

SEC. 2. That said probate court shall and may continue six days in session and no longer, at each term if the business thereof require it.

SEC. 3. And that all laws coming in conflict with the provisions of this act, be, and the same are, hereby, repealed.

SEC. 4. This act shall be in force from and after its passage.

## CHAPTER LXXXI.

An Act to amend the charter of the Indiana Medical College.

[APPROVED FEBRUARY 16, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That for the purpose of promoting medical education in the State of Indiana, the board of commissioners of each and every county in this state be, and they are, hereby, authorized to recommend and appoint, not exceeding two suitable persons, who shall at [the] time of such appointment be residents of such county, who shall be received as students in said medical college, and admitted to the full course of instruction therein for one-half the tuition fee paid by the regular class, the same being paid in advance.

SEC. 2. Such appointment may be made by said commissioners, or a majority of them, when in or out of session, and the county auditor of the proper county shall furnish to such students so appointed a certificate of his appointment, which shall be sufficient evidence to entitle him to the benefits of his appointment.

Two persons from each county to receive instruction at half the usual tuition fee.

Certificate of auditor.

SEC. 3. In making such appointments the proper county commissioners shall select men of good moral character, and such as they believe are competent to make good practitioners of medicine, and, other things being equal, shall give the preference to such as are in indigent pecuniary circumstances.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER LXXXII.

An Act fixing the time of holding circuit courts in the county of Marion, and for other purposes.

[APPROVED FEBRUARY 16, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the Marion circuit court shall hold three terms in each year; the first to commence on the first Monday in June; the second term on the first Monday in October; and the third on the first Monday in February in each year; each term shall continue four weeks if the business thereof shall require it.

SEC. 2. The first week of each term shall be held for making up issues in civil suits at law and chancery, and such issues shall, so far as practicable, be made up during said week, and for that purpose all such causes shall be subject to be called on the first and each succeeding day of the term, until the issues shall be completed; there shall be no trial upon an issue or issues of fact during said first week, nor shall there be any petit jury summoned or empannelled, or witness summoned to attend during such week; there shall be no judgment or decree rendered and entered during such first week, except upon confession, default, demurrer, or for want of plea or answer.

SEC. 3. It shall be the duty of the clerk at least ten days before the first day of the term, to make out a docket of all causes, criminal and civil, pending in said court, in which all criminal causes shall be docketed for trial on the first judicial day of the second week, and as many civil causes at law as the clerk shall deem expedient, shall be docketed for trial on each succeeding day of the term, according to their priority of com-

Persons of good moral character and in indigent circumstances to be selected.

When courts to commence and length of terms.

What business may be done 1st week of term.

Clerk's duty as to docketing causes when criminal causes to be tried.



mencement, and all such causes, criminal and civil, shall stand for trial on the day fixed by the clerk, and not sooner; and the clerk shall also docket for trial all chancery causes, according to their priority of commencement, without designating any particular day for the trial thereof, and all such causes shall be liable to be called for trial at any time during the term, but so as not to interfere with making up the issue during the first week.

Process, when returnable.

SEC. 4. All process or civil causes at law, and in chancery causes, for the appearance of defendants to answer the action, shall be made returnable to the first day of the term next after the issuing thereof, and parties shall appear accordingly; and process in criminal causes for the appearance of the defendants to answer the action shall be made returnable to the first judicial day of the second week of the term, and defendants shall appear accordingly.

Grand jurors to 1st day of term, how long to sit. Petit jurors to attend 1st day 2d, 3d, and 4th weeks of term.

SEC. 5. The grand jury shall be summoned to attend, and shall be empannelled on the first day of the term, and may, if the business require it, sit six days, but shall not sit longer unless especially ordered so to do by the court; and petit juries shall be summoned to attend on the first judicial days of the second, third, and fourth weeks of the term, and in case the court, at any term, shall continue beyond the termination of the fourth week the jury summoned for the fourth week shall serve during the residue of the term.

Conflicting laws repealed. Process, when returnable.

SEC. 6. All laws fixing other or different times than the times fixed in this act for holding the terms of the Marion circuit court, and all laws conflicting with the provisions of this act are hereby repealed; and all process in criminal or civil causes which has been, or may hereafter be issued and made returnable to the January term 1848, of said circuit court, shall be returnable to the June term in said year of said court.

SEC. 7. This act shall take effect and be in force from and after its passage.

## CHAPTER LXXXIII.

An Act authorizing county auditors to make deeds in certain cases.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all sales that may have been made by any board of congressional township trustees, as provided in the sixth, seventh, and eighth sections of chapter eleven of an act approved February 17th, 1838, entitled "an act incorporating congressional townships," &c., by the board of trustees, for a sum sufficient to refund the amount of the original loan, or the balance that may have been due thereon, with the interest and costs, shall be valid; and the auditors of the several counties in this state are hereby authorized to make a deed, in the name of the State of Indiana, to the purchaser or purchasers, conveying the title and interest of the inhabitants of the said townships to said lands to the purchaser thereof; *Provided,* That the clerks of the circuit courts, in all the counties where they perform the duties of county auditors, shall have the same power as is hereby granted to county auditors.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LXXXIV.

An Act for the benefit of Widows.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever any person shall hereafter die in this state, leaving a widow, and it shall be made to appear to the clerk of the circuit court of the county in which such decedent resided at the time of his death, that the personal property, rights, credits, monies and effects which were of said decedent at the time of his death are not worth more than two hundred dollars, and that said decedent did not die seized of any land, tenements or hereditaments, it shall be the duty of

When clerk shall appoint appraisers of decedent's estate.



such clerk to appoint two respectable householders of the township in which said decedent resided at the time of his death, to act as appraisers.

Duty of appraisers.

SEC. 2. The said appraisers, after first taking an oath faithfully to discharge their duties as such, shall proceed to appraise the said personal property, rights, credits, moneys, and effects, at their fair cash value at the time of such appraisal, and if the whole value thereof does not exceed two hundred dollars, then the said appraisers shall deliver to said widow the said personal property, rights, credits, monies and effects as her own property, and such delivery shall transfer to said widow all the right title and interest which said decedent had therein or thereto at the time of his death, and the delivery to her of said property, moneys, rights, credits, and effects shall, by virtue of this act, vest the right to sue for and recover, in her own name, any debt so appraised and transferred to her.

Widow's interest in the property.

Appraisers to file inventory with clerk, his duty.

SEC. 3. The said appraisers shall make out and file with said clerk an inventory of the personal property, rights, credits, moneys, and effects by them so appraised and delivered to said widow, which inventory the clerk shall place on file in his office, and it shall be the duty of such clerk not to issue any letters of administration on said estate to any person.

SEC. 4. All laws contrary to any provision of this act are hereby repealed.

SEC. 5. This act to be in force from and after its passage.

## CHAPTER LXXXV.

An Act amendatory to the laws in regard to writs of *ad quod damnum*.

[APPROVED FEBRUARY 16, 1849.]

On what terms the owner of dam may make a race, excavation, or embankment thro' or on the land of another,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any person or persons being the owner or owners, by legal or equitable title, of any dam across any water course, who desires to use and employ the water of such water course from such dam, in propelling a grist, saw, carding, or fulling mill, or any other machinery whatever, on the lands and premises

of such person or persons, below such dam, such person or persons may make a race, excavation or embankments, through the intermediate lands of any other person or persons, for the purpose aforesaid, such person or persons so desiring said race, excavations or embankments, having first fully paid the respective owners of such intermediate lands the full equitable value of the land which may be set apart and appropriated to such race, excavation, and embankments, and fully compensation for all damages which such race, excavation, or embankments may occasion to the lands and premises of such intermediate owner or owners; if, however, there be a grist, saw, carding or fulling mill, or any other machinery propelled by the water of the water-course on which such dam may have been erected, below such dam, but above the place where the owner of the dam may desire to propel his mills or machinery, belonging to any other person, so that the proposed race would conduct the water around such intermediate mills or machinery, and below the same, leave shall not be given to make such race, excavation, or embankments.

SEC. 2. Such person or persons before making such race, excavation, or embankments, shall apply to the circuit court of the county where such dam and land are situate, for a writ of *ad quod damnum*, in which application shall be described the location of the dam, the lands on which the applicant desires to have his mills or other machinery propelled by the water from such dam, the intermediate lands through which the proposed race, excavations, or embankments are to be made, and who use the respective owners thereof, which writ shall be issued, executed, and returned, and the proceedings in other respects be governed by the laws now in force in relation to writs of *ad quod damnum* so far as applicable, and not inconsistent with this act.

Applicant's duty in relation to the writ of *ad quod damnum*.

SEC. 3. It shall be the duty of the jury, one of whom shall be a practical engineer, after being duly sworn for that purpose, to view the dams, the lands and premises where the owner or owners desire to propel the mills or machinery aforesaid, the lands through which the proposed race, excavations, or embankments are to be made, and to locate and mark by metes and bounds the place where such race, excavations, or embankments shall be made, having due regard to the interests of both parties; they shall also assess the fair and equitable value of the land so set apart and appropriated to such race, excavations, or embankments, and such equitable amount for the damages which the parties affected by such race, excavations, or embankments may [have]

Oath and duty of Jury of Inquest, one of whom shall be a practical engineer.



sustained by the making and continuing of such race, excavation, or embankments on his or their lands, they shall also ascertain whether the mansion house of any such owner of intermediate lands through which the proposed race, excavations, or embankments shall be made, or the offices, curtileges, or gardens thereunto immediately belonging, will be overflowed or injured, and whether in their opinion the health of the neighborhood will be annoyed by the stagnation of water occasioned thereby, and by what means such annoyances or injury can be prevented, and whether in their opinion the making and continuance of such race, excavation, or embankments for the purpose aforesaid, will conduce to public utility.

Benefit of in-  
quests. By  
whom and how  
defeated.

SEC. 4. Upon return made of the inquest of the jury, any person interested or affected by the same, may appear in the circuit court to which it is returned, and plead any valid matter in bar of the right of the applicant to have the benefit of such writ; and issues of law and of fact may be made up and tried, and the court may adjudge costs therein as in actions at common law, and the court may permit amendments of the proceedings, and may set aside, for sufficient cause, any such inquest, and award another writ upon the payment of all costs by the applicant, or may dismiss the proceedings; or the court may ratify and confirm such inquest, and shall in all respects be governed herein as prescribed by law now in force in relation to writs of *ad quod damnum*, so far as applicable.

Duty of the  
court.

Upon what  
conditions ap-  
plicant may  
become seized  
in fee simple  
of, &c.

SEC. 5. If the party applying shall obtain leave to make such race, excavation, or embankment through the intermediate lands aforesaid, he shall, upon paying respectively to the several persons entitled, the assessed value as aforesaid of the lands set apart and appropriated by the jury to such race, excavation, or embankments, and the damages which the jurors may assess on the inquest aforesaid, become seized in fee simple of the land so set apart and appropriated for such race, excavation, or embankments by said jurors; but if he shall not, within one year after the decision of the court, begin to make such race, excavation, and embankments, and finish the same with[in] three years, and afterwards continue it in good repair for the purposes aforesaid, or in case the dam, buildings and machinery, or either of them, be destroyed, if he shall not begin to re-build the same within one year after such destruction, and finish the erection thereof within three years thereafter, the lands so set apart and appropriated for such race, excavation, or embankments, shall revert to the former pro-

What omis-  
sions will for-  
feit title, &c.

prietor and his heirs, unless at the time of such destruction the owner of such dam, building, and machinery be a *feme covert*, an infant, imprisoned, or of unsound mind, in which case the length of time above specified shall be allowed after such disability shall be removed.

SEC. 6. Any assessment of the value of lands so set apart and appropriated as aforesaid, and the damages, in pursuance hereof when the same shall be fully paid and satisfied after confirmation of such inquest as aforesaid by the court, shall bar a recovery for any damages or injury sustained subsequent to such inquest in any and every action at law.

SEC. 7. This act to be in force from and after its publication in the Indiana Journal and State Sentinel.

## CHAPTER LXXXVI.

An Act for the government of the Indiana Hospital for the Insane.

(APPROVED FEBRUARY 15, 1848.)

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana*, There shall be six commissioners of the Indiana Hospital for the Insane to be elected by joint *viva voce* vote of the General Assembly of this state, who shall serve six years from the day of appointment. The present commissioners shall serve out their respective terms as heretofore fixed by law, and as vacancies occur, they shall be filled by the appointment of the Governor, to serve until the next meeting of the General Assembly of the state. The commissioners, before entering on the duties of their office, shall severally take an oath or affirmation, faithfully and impartially to discharge their duties as such commissioners, and in all respects conform to the laws in force relating to said hospital.

Commissioners  
how elected,  
term of service.

Oath of Office.

SEC. 2. The commissioners shall be intrusted with the general control and management of the hospital; they shall prescribe rules, regulations and by-laws for the government of the same, conduct its affairs agreeably to the requirements of the legislature, and such rules, regulations and by-laws as they may establish; they shall also have authority as soon as any portion of the hospi-

The duties and  
powers of  
commission'rs.



tal shall be ready for the reception of patients, to appoint a superintendent to take charge of the patients and the hospital as it may from time to time be finished, and shall also have authority to appoint a matron, and such assistant physicians, steward and other principal officers as they may deem necessary to an efficient and economical administration of the affairs of the institution. They shall, in their rules, regulations and by-laws for the government of the hospital, prescribe the duties of the respective officers, their tenure of office, and determine the salaries of those officers, except as otherwise provided by law. The commissioners may at their pleasure remove from office any officer of said institution except the superintendent, and they may remove the superintendent for incompetency, wilful neglect or refusal to discharge any of the duties devolving on him as such superintendent, or for any misconduct on his part which might render it unfit and improper for him to continue longer the superintendent of the institution.

SEC. 3. Two of the commissioners shall visit the hospital together monthly, a majority of them together semi-annually, and all the commissioners together shall make at least one visit during the year. An annual meeting of the commissioners shall be held on the second Tuesday of November.

SEC. 4. The commissioners shall keep a full account of their proceedings in a book to be provided for that purpose; the officers of the institution shall make reports to the commissioners as the commissioners from time to time may require; the superintendent shall make a full report to them at their annual meeting; the treasurer shall also at the same time make a full report to them of the operations in his office relating to the hospital; the commissioners at that meeting shall make a full report to the General Assembly; the report of the superintendent and treasurer shall accompany the report of the commissioners.

SEC. 5. The commissioners may take and hold in trust for the hospital any lands conveyed or devised, and any money or other personal property given or bequeathed, to be applied to any purposes connected with the institution.

SEC. 6. The treasurer of state shall be the treasurer of the hospital, and shall collect all debts due thereto, and for any mis-feasance, mal-feasance or non-feasance he and his sureties shall be liable as in other cases.

SEC. 7. The superintendent heretofore appointed under the act entitled "an act authorizing the erection of a suitable building for the use of the Indiana hospital

To appoint superintendent, matron, physicians, steward, &c.

Two com'rs. visit monthly and a majority semi-annually, and all yearly, and annual meetings to be held.

Accounts and reports, how to be kept and when to be made and by whom.

What held in trust and for what purpose.

Treasurer, who, his duty and how liable.

Present superintendent to superintend the

for the insane," approved January 19, 1846, to superintend the erection of said hospital, and the improvement of the hospital grounds, shall continue to discharge the duties required by him by the law heretofore in force in relation to the same, and he shall not be considered superceded in any of those particulars by the superintendent authorized by this act to be appointed to take charge of the patients and hospital as from time to time finished for the reception of patients; but that the duties of each shall remain separate and distinct, the former to superintend the erection and finishing of the building and improvements of the lands, and the latter to superintend and take charge of the patients and hospital as finished as in this act provided; *Provided*, that nothing herein contained shall make it the imperative duty of the commissioners to continue to keep a superintendent to superintend the erection of the buildings and the improvement of the grounds, if in their opinion the same can be advantageously dispensed with.

SEC. 8. The superintendent to be appointed under this act, shall be a physician, and a person of knowledge, skill, and ability in his profession. He shall reside in the hospital, devote his entire time and attention to the same, and the patients therein, and shall not engage in the practice of his profession out of the hospital; he shall receive for his services an annual salary, to be determined and fixed by the commissioners, which shall be paid quarterly out of the state treasury, upon the warrant of the auditor of state, and shall also have the boarding of himself and family in the hospital free of charge. He shall continue in office six years, unless sooner removed by the commissioners, and before entering on the duties of his office, shall take an oath or affirmation that he will diligently, faithfully, and impartially discharge all the duties required of him by law.

SEC. 9. The superintendent shall be the chief executive officer of the hospital, and shall have the care and control of every thing connected therewith; he shall see that the several officers of the institution, faithfully and diligently discharge their respective duties; he shall employ such attendants, nurses, servants, and other persons as he may think proper, and assign them their duties, and may at pleasure discharge them; he shall receive from the proper persons the patients entitled to admission into the hospital, and when cured discharge them; in all cases, however, he shall be subject to the control of the commissioners.

SEC. 10. The superintendent shall provide an official seal for the hospital, upon which shall be the words,

erection of hospital buildings, improvement of land, &c. until disposed of.

Superintendent, his qualifications, residence, salary, duty, term of office, oath, &c.

Superintendent, chief executive officer, his duty, &c.

Seal, description of, certification of, cases, reports.



"Indiana Hospital for the Insane;" he shall make reports to the commissioners as by section four of this act is required, and in all things he shall conform to the requirements of the legislature, and to the rules, regulations and by-laws, made by the commissioners for the government of the hospital, its officers and inmates.

### ADMISSION OF PATIENTS.

Requests for admission.

SEC. 11. Insane persons residing in this state, and having a legal settlement in any county therein, shall be supported and receive medical treatment in the hospital at the expense of the state, subject to the limitations and restrictions hereinafter mentioned. To entitle such persons to admission in the hospital, the following proceedings shall be had:

Mode of admission.

Some respectable citizen residing in the proper county, shall file with one of the associate judges of such county, a statement in writing, which shall be substantially as follows:

Statement for admission.

State of Indiana, ——— county, SS.

The undersigned, a citizen of the State of Indiana, hereby states as follows, that ——— (naming the person,) is insane. His insanity is of duration, (or his living at large is dangerous to the safety of the community,) he has a legal settlement in ——— township in this county, and is a resident of the State of Indiana. These facts can be proven by ——— and ——— (naming at least two persons, one of whom shall be a respectable physician.) Dated this ——— day of ——— A. D. ———.

A. B.

Associate judge, his duty in relation to proof, &c.

SEC. 12. The associate judge shall thereupon order the clerk of the circuit court of such county, to issue subpoenas for the persons named as witnesses, and such other persons as he may think proper, commanding them to appear before him at the court house in such county, at a specified time, to testify concerning the facts set forth in said statement. Subpoenas may also be issued for witnesses on behalf of the person alledged to be insane.

By whom witnesses as to applicant, to be examined &c.

SEC. 13. Before the time specified for the appearance of the witnesses, the judge ordering the subpoenas to issue with the other associate judge of said county, and in case such other associate is absent or unable to attend, then with the probate judge, and if the other associate judge and the probate judge are both absent or

unable to attend, then the associate judge ordering the subpoena, shall visit the person alledged to be insane; the judge ordering the subpoena may, if he deems it necessary, employ some respectable physician of such county, best acquainted with the person alledged to be insane, to accompany him or them on such visit.

SEC. 14. At the time appointed (unless the investigation shall be adjourned over to some other time,) the judges or judge, as the case may be, and as in the thirteenth section of this act provided, shall proceed to examine the witnesses in attendance; at least one of the witnesses examined shall be a physician. One of the witnesses to be a physician.

SEC. 15. If after such visit and inquest the judges or judge, as the case may be, shall be satisfied of the truth of the facts set forth in the statement, they shall require the medical witnesses forthwith to make out a certificate setting forth: Medical witness to make statement set forth.

1. That the patient is free from any infectious disease or vermin.

2. The age of the patient, and a concise history of his case.

3. The duration of the disease, dating from the first symptoms.

4. The supposed exciting cause of the disease.

5. Whether the disease is hereditary.

6. Whether the patient has been subject to epilepsy.

7. Whether the patient has made any attempt to commit any violence on himself or others.

8. The medical treatment pursued in the case, [and] any other circumstances known to the physician, tending to throw light upon the subject.

The judges or judge, as the case may be, shall likewise forthwith make out a certificate, which shall be substantially as follows:

The State of Indiana ——— county, SS.

Judge's certificate.

We (or I,) the undersigned associate judges or judge, or associate and probate judges, (as the case may be,) in and for said county, hereby certify that we (or I, as the case may be,) have visited ——— of said county, a person alledged to be insane, and have this day held an inquest in regard to him according to law; we are (or I am,) satisfied that he is insane, that he is a fit subject to be sent to the Indiana Hospital for the Insane to undergo treatment therein: that his disease is of duration (if his being at large would be dangerous to the community,) [that] we are well satisfied that his living at large would be dangerous to the community, that he is a res-



ident of the State of Indiana, and he has a legal settlement in ——— township in said county. Witness our hands this ——— day of ——— A. D. ———.

A. B.  
C. D.

Judge's statement if not satisfied, particulars of medical statement also.

SEC. 16. If after such visit and inquest the judges or judge, as the case may be, shall not be satisfied of the existence of either of the facts necessary to be certified, to entitle the person alleged to be insane, to admission into the hospital, they or he, shall make out a certificate in the same form with that required by the preceding section, setting forth the necessary facts of which they are satisfied and the necessary facts which are not established to their satisfaction. The medical witness shall also make out a certificate as above required.

Judge to deposit his own and physician's statement with clerk of C. C. his duty in relation thereto.

SEC. 17. Immediately after the inquest the judges or judge, as the case may be, shall deposit with the clerk of the circuit court the statement in writing, their or his certificate, and that of the medical witness, all of which he shall label, file, and carefully preserve in his office. It shall be the duty of the clerks of the circuit courts in their respective counties to attend such investigation, and keep a book in which the nature of the proceedings and all matters relating to the investigation shall be recorded; and the clerk shall make out a bill of the costs and certify the same to the county auditor, and upon his warrant the same shall be paid by the county treasurer.

Clerk to make application to superintendent for admission of patient, superintendent's duty thereon.

SEC. 18. The clerk of the circuit court, upon receiving the certificate of the judges or judge, as the case may be, and the certificate of the medical witness, made out according to the fifteenth section of this act, shall forthwith apply to the superintendent for the admission of such person into the hospital. He shall at the same time transmit copies, under the seal of the circuit court, of said certificates. Upon receiving the application, the superintendent shall immediately advise the clerk when the patient can be received. The clerk shall thereupon in due season, for the conveyance of such person to the hospital by the time appointed, issue his warrant to the sheriff or any other suitable person, commanding him forthwith to arrest such insane person and convey him to the hospital. If the clerk be satisfied of its necessity, he may authorize one or more assistants to be employed; said warrant shall be substantially as follows:

Clerk to issue his warrant to sheriff.

The State of Indiana ——— county, SS.

Warrants.

To ——— Greeting:

WHEREAS, The proceedings necessary to entitle ——— to be admitted into the Indiana Hospital for the Insane as a patient, have been had according to law, you are hereby commanded forthwith to arrest said person and convey him to said hospital, (and you are hereby authorized to take to your aid ——— assistants if deemed necessary by you.) After executing the warrant, you shall make due return thereof to this office. Witness my hand and the seal of the ——— circuit court, this ——— day of ——— A. D. ———.

——— Clerk.

Upon receiving the patient the superintendent shall endorse upon said warrant a receipt substantially as follows:

Indiana Hospital for the Insane, A. D. ———.  
Received this ——— day of ——— the patient named  
in the within warrant.

——— Superintendent.

This warrant, with the receipt thereon, shall be returned to the clerk who issued the same, and shall be filed by him with the other papers relating to the case; *Provided*, That in all cases the relations of the insane person shall have a right, if they choose, to convey him to the hospital; in such case the warrant shall be directed to one of them, and the person to whom it is directed and his assistants shall, if demanded, receive the same compensation allowed for like services by others; *Provided, also*, That if the medical witness shall not state in his certificate that the patient is free from any infectious disease, and from vermin, it shall not be the duty of the clerk to apply to the superintendent as herein before provided.

Warrant to be returned to clerk, his duty in relation to.

SEC. 19. When a patient is sent to the hospital it shall be the duty of the clerk to see that the patient is supplied with the proper clothing, and if not otherwise furnished, the clerk shall purchase it, and in such case the same shall be paid for, upon the certificate of the clerk, and the order of the county auditor, out of the county treasurer. For a male patient, such clothing shall be as follows: A coat, vest, and two pairs of pantaloons, all of woollen cloth, two pairs of woollen socks, two pocket handkerchiefs, a black stock or handkerchief for the neck, a good hat of fur or silk, (or comfortable cap,) a pair of shoes or boots, and at least two cotton shirts, and such outside garment as will be sufficient to protect him in severe weather. For a female

Clerk's duty in relation to patients when admitted.



patient such clothing shall be as follows : Two substantial gowns or dresses, two flannel petticoats, two pairs of woollen stockings, one pair of shoes, two handkerchiefs, a decent bonnet, at least two cotton chemises, and a large comfortable shawl or cloak. In both cases the articles of clothing shall be new, or as good as new, and the woollens of a dark color. Such clothing shall be delivered in good order with the patient, to the superintendent, and without such clothing the superintendent shall not be bound to receive the patient.

The clerk, or person required to convey patient to hospital, how prosecuted for neglect of duty.

SEC. 20. If the clerk shall neglect to issue and deliver to the proper person a warrant for the conveyance of the patient to the hospital, as hereinbefore required, or if the person to whom the warrant is directed shall not, within fifteen days after the receipt thereof, deliver the patient at the hospital, the clerk or person so offending shall forfeit the sum of fifty dollars, to be recovered with costs in action of debt, in the name of the superintendent, for the use of such patient ; and if any insane person shall be conveyed to the hospital before the superintendent shall have given notice that he can be received, as herein before provided, no fees or compensation whatever shall be paid to those by whom he or she was so conveyed.

Manner of conveying patient to hospital ; consequences of neglect.

SEC. 21. If any person conveying a patient to the hospital under the provisions of this act, shall convey such patient in company with criminals going to the penitentiary, or shall suffer such patient to drink ardent spirits, the person so conveying him, and his assistants, shall forfeit all claim to the compensation allowed them by this act.

Clerk to direct how patient shall be treated until received.

SEC. 22. If according to the result of the inquest aforesaid the patient shall be entitled to admission into the hospital, the clerk shall direct how he shall be taken care of until he can be admitted, and if necessary, may direct his confinement in the county jail ; and if all things needful for his comfort, and proper care be not otherwise supplied, he shall furnish them, and the same shall be paid for out of the county treasury on the certificate of the clerk and order of the county auditor.

For what cause patients may be discharged, and how.

SEC. 23. Any patient may be discharged from the hospital upon the application of the superintendent to the commissioners, and the commissioners' order thereupon. Incurable and harmless patients shall be discharged whenever such discharge is necessary to make room for a recent case as ordered by the commissioners.

Superintendent's duty in cases of removals.

SEC. 24. Whenever an order shall be made out for the removal of a patient from the hospital, the superintendent shall immediately give notice thereof, under his

official seal, to the clerk of the circuit court of the county from which such patient was sent, and thereupon such clerk shall forthwith issue his warrant to the sheriff of said county, which warrant shall be substantially as follows :

The State of Indiana, }  
— county, } SS.

To the sheriff of — county—greeting :

Writ to remove.

Whereas, the proper authority has directed that —, a patient in the Indiana Hospital for the Insane, from this county, be removed from said hospital ; you are therefore hereby commanded forthwith to remove said patient, and return him to — township, in this county, where he had a legal settlement when he was taken to the hospital. Witness my hand and seal of the — circuit court, this — day of —, A. D. —.

— Clerk.

Immediately upon receiving such warrant it shall be the duty of the sheriff, by himself or deputy, forthwith to execute the same and return it to the clerk by whom it was issued, and if any clerk, upon receiving such notice, shall refuse or neglect for the space of five days to issue and place such warrant in the hands of the sheriff, or if such sheriff shall refuse to receive the same, or neglect for the space of twenty days after receiving the warrant to demand such patient of the superintendent, the patient shall be charged from the date of the notice to the clerk until his removal, at the same rates as pay patients, and the amount may be recovered in an action of assumpsit upon the indebitatus counts, with the costs of suit, in the name of the superintendent against the clerk or sheriff so offending.

Clerk's duty in cases of removal.

SEC. 25. When a patient is discharged as cured, the superintendent shall furnish him with suitable clothing, and a sum of money not exceeding twenty dollars, unless otherwise supplied.

Patients how to be supplied when disch'd.

SEC. 26. No idiot shall be admitted into the hospital, and every such patient therein shall be discharged.

Idiots not to be admitted.

SEC. 27. If the application shall be made for the admission of more patients than the hospital can receive, a selection shall be made as follows :

Selection when to be made.

1st. Recent cases, (*i. e.*) when the disease is less than one year's duration, shall have the preference over all others in the county.

1st preference.

2d. Chronic cases, (*i. e.*) when the disease is of more than one year's duration, presenting the most favorable prospect of recovery, shall be next preferred.

2d preference.



3d preference.

3d. Those for whom applications have been the longest on file, other things being equal, shall be next preferred.

Counties entitled to proportion.

4th. Each county shall be entitled to its just proportion, according to its population, but the commissioners in the exercise of a sound discretion, may, if necessary, give preference to recent cases from one county over chronic cases from another county.

Patients how readmitted.

SEC. 28. When any state patient discharged from the hospital as cured shall again become insane, any respectable physician may file with the clerk of the circuit court a certificate setting forth the recurrence of the disease, and such facts and suggestions relating thereto as he may deem material; upon receiving such certificate, the clerk shall immediately transmit a copy thereof, authenticated by the seal of the circuit court, to the superintendent, and thereupon the same proceedings shall be had in all respects as when the certificate of the judges or judge holding the inquest was transmitted.

Patients eloped how returned.

SEC. 29. Should any insane person elope from the hospital and return to the county from whence he was committed, it shall be the duty of the sheriff of said county, upon being notified by the superintendent, forthwith to apprehend him and take him back to the hospital, and the sheriff shall be paid by the steward of the hospital by order of the superintendent, the same fees as provided in other cases for the commitment of insane persons to the hospital.

### OF PAY PATIENTS AND THEIR ADMISSION.

Patients not having a legal settlement how provided for.

SEC. 30. No insane person not having a legal settlement in some county in this state shall be received into the hospital until satisfactory arrangements have been made with the superintendent, under the direction of the commissioners, for his support and discharge or burial expenses. No such patient shall be admitted to the exclusion of one having a legal settlement, and all such patients in the hospital shall be discharged if necessary to make room for those having such settlement. And insane persons who are residents in this state shall have preference over those who are transient or non-residents.

Receipt of treasurer of state of payment before admission of one month's pay. Bond and certi-

SEC. 31. Before any such person shall be received into the institution, there shall be produced to the superintendent: 1. The receipt of the Treasurer of State, acknowledging the payment of at least one month's charges in advance. 2. A sufficient bond, conditioned

as hereinafter required. 3. A certificate of some respectable physician, as required in section fifteen of this act. No other proceedings shall be necessary for the admission of pay patients. The bond above mentioned shall be substantially as follows:

Know all men by these presents, that we, —, —, Bond. of the county of —, in the State of Indiana, are held and firmly bound unto the Superintendent of the Indiana Hospital for the Insane in the penal sum of — dollars, for the payment whereof we hereby bind ourselves jointly and severally, without any relief whatever from valuation or appraisement laws of this state. Witness our hands and seals this — day of —, A. D., —.

The condition of this obligation is such, that whereas — of the county of —, in this state, is about to be admitted as a pay patient into the said hospital: Now if while he shall remain therein, the undersigned shall constantly supply him with suitable clothing, and pay all charges of said hospital against him monthly in advance, and whenever his removal shall be required, immediately remove him, and if he shall escape from the hospital, pay all reasonable charges incurred in retaking him, and if he shall die therein, pay all reasonable expenses incurred for his funeral, then this obligation shall be void, otherwise it shall be in full force.

[SEAL.]  
[SEAL.]

SEC. 32. If there shall be a balance in the treasury to the credit of such pay patient removed from the hospital, the treasurer shall pay it to the person authorized to receive the same upon the certificate or order of the superintendent. Treasurer to pay balance.

### MISCELLANEOUS PROVISIONS.

SEC. 33. For all debts due to the hospital, an action may be maintained in the name of "the Superintendent of the Indiana Hospital for the Insane," and if the action is not founded upon a sealed instrument, it may be in assumpsit, and a declaration, if any is necessary, may be indebitatus count; and in any action upon any bond given for the support or expenses of a pay patient, or in any other action for the support or expenses of a patient, or for the expenses of his removal from the hospital, the account therefor, officially certified by the superintendent, Mode of collecting debts due hospital, how disposed of.



ent, shall be *prima facie* evidence of the indebtedness, and interest shall be chargeable from the time the indebtedness accrued, and the impression of the official seal of the superintendent to a certificate or account, to which the signature of the superintendent is annexed, shall be *prima facie* evidence that such signature is the hand-writing of the superintendent.

SEC. 34. The taxable costs and expenses to be paid under the provisions of this act shall be as follows:

To the judges or judge, as the case may be, holding the inquisition, each three dollars per day;

To the medical witnesses accompanying the judge or judges on their visit to the person alledged to be insane, or attending the investigation and making out a certificate as required in section fifteen of this act, three dollars per day.

The order costs are to be paid out.

To other witnesses the same fees as are allowed by law for the services in other cases in the circuit court.

To the clerk of the circuit court the same fees as are allowed by law for the like services in other cases, and the amount of postage upon all the communications to and from the superintendent, which said clerk is required to pay.

To the sheriff for serving process herein, [and] attending inquisition, the same fees as are allowed by law for like services in other cases, and for taking a patient to the hospital, or removing one therefrom upon the warrant of the clerk, mileage going and returning at the rate of eight cents per mile, and fifty cents per day for the support of each patient on his way to or from the hospital.

To each assistant allowed by the clerk, and accompanying the sheriff, mileage at the rate of — cents per mile for going and returning. The computation in both instances to be made from the county seat to the hospital by the nearest route usually traveled.

To other persons discharging the duties of the sheriff herein, as by this act provided, the same fees as are herein allowed to the sheriff, and the assistants of such person, the same fees as are herein allowed to the assistants of sheriffs.

The costs specified in this section shall be paid out of the county treasury of the proper county, upon the certificate of the clerk and the order of the county auditor.

SEC. 35. When any person shall be confined as insane, a writ of *habeas corpus* may be issued as in other cases, for his discharge, and the question of insanity shall be decided at the hearing: *Provided*, That if the judge shall decide that the person is insane, the decision

Costs to be paid out of the county treasury.

Writ of habeas corpus may issue, proceedings thereon.

shall be no bar to the issuing another writ whenever it shall be alledged, that such person has since been restored to his reason.

SEC. 36. Every word in this act importing the masculine gender shall extend and be implied to females as well as males; and any word importing the singular number only, or the plural number only, may be applied to one person or thing, as well as several persons or things.

Plural and singular terms, how construed.

SEC. 37. No part of this act shall be construed to effect or change the laws heretofore in force, in relation to the erection and completion of said hospital, for the reception of patients, and the improvement of the hospital lands, nor in the manner of contracting work, labor, or materials therefor, or in the manner of paying for such work, labor, and materials, but the same in all particulars, shall be done according to the law heretofore in force, in relation thereto.

How this act to be construed.

SEC. 38. There shall be no stay of execution on any judgment rendered on any bond, claim, debt, or demands due the said hospital.

SEC. 39. This act to take effect and be in force from and after the first day of July next, except so far as this act authorizes the appointment of an additional commissioner, and so far it shall be considered in force from and after its passage.

## CHAPTER LXXXVII.

An Act to amend an act compelling speculators to pay a road tax equal to that paid by actual settlers.

[APPROVED FEBRUARY 11, 1843.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled an "act to compel speculators to pay a road tax equal to that paid by actual settlers," approved January 31, 1842, be and the same is hereby so amended that all male inhabitants liable, by said act, to work upon the roads, may be required by the proper supervisor or supervisors to work two days in each year upon the roads, if such supervisor or supervisors shall deem so much labor proper, subject

Act amended.



to the same provisions and commutations per day, as is now by said act provided.

Certain counties exempted. SEC. 2. The counties of DeKalb, Allen, Benton, White, Pulaski, and Wells are exempted from the provisions of this act, and this act is extended to the county of St. Joseph.

SEC. 3. All acts and parts of acts, so far as the same contravene the provisions of this act, are hereby repealed, and this act shall be in force from and after its passage.

### CHAPTER LXXXVIII.

An Act amending section four hundred and fifty-three, chapter thirty, of the Revised Statute of 1843, and for other purposes.

[APPROVED FEBRUARY 16. 1848.]

In what cases executors and administrators witnesses.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section four hundred and fifty-three of chapter thirty of the Revised Statutes of 1843, be, and the same is hereby so amended, that executors and administrators shall be competent witnesses to prove the publication or setting up of any notices which they by law are required to give as such, in manner and from as is prescribed by said section.

Guardian a witness to prove notice.

SEC. 2. *Be it enacted*, That any guardian shall be a competent witness to prove the publication or setting up of any notice, which by law he is required to give as such guardian, by filing a copy of one of the notices in the clerk's office of the proper probate court, with his affidavit endorsed thereon or attached thereto, setting forth the time, place, and manner such publication was made.

Copy of notice prima facie evidence.

SEC. 3. Such copy of any notice verified as aforesaid, and duly certified by the clerk of said court, shall be received in evidence in any court in this state, and be deemed *prima facie* evidence of the matters and things therein contained.

Proof of notices legalized.

SEC. 4. That all proof of publication and setting up of notices as named in this act heretofore made by the affidavit of any executioner, administrator or guardian, are hereby legalized, rendered as valid and effectual, as if this act had been in full force and effect at the time of

each publication or setting up of notice, and the proof thereof.

SEC. 5. This act to take effect and be in force from and after its passage.

### CHAPTER LXXXIX.

An Act to fix the time of holding courts in the eighth Judicial Circuit.

[APPROVED JANUARY 13. 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts in the eighth judicial circuit shall hereafter be holden as follows, to-wit: In the county of Wabash on the third Mondays in February and August in each year; in the county of Miami on the Monday succeeding the terms in the county of Wabash; in the county of Fulton on the Monday succeeding the terms in the county of Miami; in the county of Pulaski on the Monday succeeding the terms in the county of Fulton; in the county of Jasper on the Monday succeeding the terms in the county of Pulaski; in the county of White on the Monday succeeding the terms in the county of Jasper; in the county of Carroll on the Monday succeeding the terms in the county of White; in the county of Cass on the Monday succeeding the terms in the county of Carroll; in the county of Howard on the Monday succeeding the terms in the county of Cass. Court when to be holden.

SEC. 2. The courts in the county of Cass shall sit two weeks at each spring term, and three weeks at each fall term, if the business thereof requires it; the courts in the counties of Wabash, Miami, and Carroll shall sit two weeks each at each term, if the business thereof requires it; the courts in the counties of Fulton, Pulaski, Jasper, White, and Howard shall sit one week each, if the business require it. Length of terms.

SEC. 3. All parties, witnesses, and all other persons concerned, shall take notice of this act and appear accordingly; and all writs, process, and notices which may have been issued or served before the taking effect of this act, in relation to matters now pending, or to be pending in any of said circuit courts, are hereby made Parties witnesses, &c., to take notice of this act. Writs, &c., when returnable.



Suits, &c. &c.,  
now pending  
how acted  
upon.

returnable to the first day of the next term of said courts as fixed by this act; and all suits, recognizances, motions, rules, and other proceedings which at the time of taking effect of this act shall be pending in any of said courts, shall be acted upon therein in the same manner as if this act had been in force at the time they were commenced, taken, issued, or instituted.

What acts re-  
pealed.

SEC. 4. All acts and parts of acts coming within the purview of this act be, and the same are, hereby, repealed.

SEC. 5. This act to take effect and be in force from and after its passage; and it is hereby made the duty of the Secretary of State to forward to each of the clerks of the several circuit courts in said circuit a certified copy of this act immediately.

## CHAPTER XC.

An Act fixing the times of holding Circuit Courts in the third Judicial Circuit.

[APPROVED JANUARY 19, 1848.]

Courts, when  
holden and  
how long to  
sit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts in and for the counties composing the third judicial circuit of this state, shall hereafter commence and be holden in said counties at the times following, to wit: In the county of Ohio on the second Mondays of February and third Mondays of August, and shall sit for two weeks if the business thereof shall require it; in the county of Jefferson on the first Mondays of March and second Mondays of September, and shall sit until the commencement of the circuit court in the county of Jennings, if the business thereof shall require it; in the county of Jennings on the first Mondays of April and second Mondays of October, and shall sit until the commencement of the circuit court in the county of Bartholomew, if the business thereof shall require it; in the county of Bartholomew on the second Mondays of April and third Mondays of October, and shall sit until the commencement of the circuit court in the county of Switzerland, if the business thereof shall require it; in the county of Switzerland on

the first Mondays of May and second Mondays of November, and may sit as long as the business may require.

SEC. 2. That all writs, subpoenas, venires, rules, orders of court, recognizances, publications, and all process whatsoever, which may have issued from any circuit court in said circuit since the last session thereof, or which may hereafter issue previous to the taking effect of this act, shall be deemed and taken to be, and are hereby made returnable to the first day of the first term of the several courts to be holden by virtue of this act; and all suits, actions, and other proceedings now pending, or which hereafter may be pending in said courts, shall be taken up and acted upon at the times herein fixed for the holding thereof, and be disposed of in the same manner as if no alteration had been made of the times for the sittings of said courts.

Process when  
returnable.

Suits, actions,  
&c., when act-  
ed upon.

SEC. 3. That all laws and parts of laws coming within the purview of this act are hereby repealed.

SEC. 4. That this act take effect and be in force from and after its passage, and shall immediately thereupon be published in the Indiana Journal and State Sentinel.

## CHAPTER XCI.

An Act to amend an act entitled "an act for the benefit of the volunteers for the Mexican war, and for the relief of county treasurers."

[APPROVED JANUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of an act entitled "an act for the benefit of the volunteers of the Mexican war, and for the relief of county treasurers," approved January 14th, 1847, be so amended as to extend to such volunteers in the Mexican war, as were at the period of their enrollment, citizens and residents of the State of Indiana.

Provisions of  
act of 1847  
extended.

SEC. 2. That it shall be the duty of the county treasurer of any of the counties of this state, in which any volunteer or volunteers aforesaid shall have had taxes charged against them either for county or state purposes for the year 1846, to enter receipt on the tax book of the proper county in favor of such volunteer or volun-

Treasurer's  
duty in rela-  
tion to tax of  
1846.



teers, in the manner prescribed by the act to which this is amendatory, in all cases where the taxes remain due and unpaid, and that in all cases where any taxes have been collected from any of said volunteers for said year, it shall be the duty of said treasurers to refund out of any moneys in their hands, accruing from taxes collected for the state or county, such sums respectively as may have been collected from the persons so intended to be released from taxes in and for said year.

Treasurer's  
duty relative to  
tax of 1847.

SEC. 3. That in case any one or more of said volunteers shall be chargeable with county or state taxes for the year 1847, which are yet due and unpaid, it shall be the duty of said treasurers to enter a credit in favor of such volunteer or volunteers for the amount of his or their taxes for the year 1846: *Provided*, The amount for said year 1847 shall not exceed the amount with which said volunteer or volunteers were chargeable for the year 1846, and in case the taxes of said volunteer or volunteers for 1847 shall not exceed the amount of taxes aforesaid for 1846, then said treasurer shall credit the taxes of said persons for 1847, with the amount of their taxes for 1846, and in case the taxes of said volunteer or volunteers for 1846 shall exceed the amount of their taxes for 1847, then the full amount for 1847 shall be credited as aforesaid, and the said treasurer shall refund the difference in said taxes to the person or persons entitled to receive the same: *And provided also*, That in case of the death of any such volunteer or volunteers, their widows or legal representatives shall be entitled to all the privileges hereby extended.

Provisions ex-  
tended to regu-  
lars, &c.

SEC. 4. *And be it further enacted*, That the provisions of this act, and the act to which this is amendatory, be extended to the volunteers and regulars who are now in the service in the Mexican war.

SEC. 5. That in order to carry out the provisions of this act, the said county treasurers, state treasurer, and boards doing county business, shall be governed in all respects by the act to which this is amendatory.

Who governed  
by this act.

SEC. 6. This act to take effect and be in force from and after its passage and publication in the Indiana Journal and State Sentinel.

## JOINT RESOLUTIONS

OF THE

### GENERAL ASSEMBLY OF INDIANA.

#### CHAPTER I.

A Joint Resolution to postpone the public sales of the lands in the Miami Reserves.

[APPROVED JANUARY 13, 1849.]

WHEREAS, By the proclamation of the president of the United States all of the unsold lands in the different Miami reserves in this state are to be offered at public sale in the month of May next; AND WHEREAS, Under the pre-emption law of 1846 said lands have been for several months subject to private entry by actual settlers, whereby the best and most valuable lands have already been purchased, leaving the more inferior lands yet unsold, a great proportion of which is now settled upon and largely improved by individuals who have not the present ability to purchase the same at the high minimum price at which the same must be sold under said pre-emption law; AND WHEREAS, From the practice of the government heretofore in similar cases, the said settlers were induced to believe that the said public sales would not take place until a much later period; AND WHEREAS, In the opinion of the General Assembly justice to the said settlers requires that the said public sales should be postponed, that such postponement would tend to encourage the settlement and sale of large quantities of said lands which will otherwise remain unsold and unimproved; Therefore,

*Be it resolved by the General Assembly of the State of In-*



*diana*, That our senators in congress be instructed, and our representatives be requested, to use their utmost exertions to procure the passage of a law by congress postponing the public sales of said lands for five years from the time the last surveys of the same were returned to the general land office.

*Be it further resolved*, That his excellency, the governor, be directed to transmit a copy of the foregoing joint resolution to each of our senators and representatives in congress, with as little delay as practicable.

## CHAPTER II.

A Joint Resolution on the subject of locating land warrants.

(APPROVED FEBRUARY 15, 1848.)

*Resolved by the General Assembly of the State of Indiana*, That our senators in congress be instructed and our representatives requested to use their exertions to procure the passage of a law authorizing those who have served and may hereafter serve in the existing war with Mexico, to locate the lands to which they are or may be entitled, in less quantities than one hundred and sixty acres, or upon any lands upon which the volunteer or holder of such land warrant may be entitled to a pre-emption right.

*Be it further resolved*, That the governor be requested to forward a copy of this joint resolution to each of our senators and representatives in congress, immediately after its passage.

## CHAPTER III.

A Joint Resolution in relation to increasing the clothing pay of Volunteer non-commissioned officers and privates belonging to our armies in Mexico.

(APPROVED FEBRUARY 14, 1848.)

**WHEREAS**, The history of the world fails to present a parallel to the daring, bravery, and indomitable perseverance which have been displayed, and the brilliant victories which have been accomplished by our armies in Mexico; **AND WHEREAS**, The gratitude of our nation is due to the brave officers and men who have perilled their lives in the service of their country; **AND WHEREAS**, Gratitude and glory alone are insufficient to protect our soldiers from the inclemency of the weather; **AND WHEREAS**, In the opinion of this General Assembly the present clothing pay of forty-two dollars per annum to each soldier is insufficient; Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That our senators in congress be instructed, and our representatives requested, to advocate the immediate passage of a law by congress increasing to a fair compensation the clothing pay of all volunteer non-commissioned officers and privates who now are, or hereafter may, belong to our armies in Mexico.

*Be it further resolved*, That his excellency, the governor, be requested to transmit immediately copies of this joint resolution to each of our senators and representatives in congress.

## CHAPTER IV.

A Joint Resolution for the reduction of the price of public lands in the Great Miami Reserve to one dollar and twenty-five cents per acre, to actual settlers.

(APPROVED DECEMBER 16, 1847.)

**WHEREAS**, In the opinion of the General Assembly of the state of Indiana, it is the true policy of the government of the United States to deal out equal and exact justice to all men;



AND WHEREAS, It has heretofore been the uniform practice of the general government to grant pre-emptions at one dollar and twenty-five cents per acre to all settlers on the public domain, except in the last act of congress granting pre-emptions to settlers on the Miami national reserve at two dollars per acre:

AND WHEREAS, There is nothing either in the situation or quality of those lands to warrant this unjust and unequal distinction, particularly when the settlers are confined in making their pre-emption to fourth rate lands, and the other three qualities, first, second, and third, being either reserved by the Indians, or selected and sold by the state for internal improvement purposes. And as this late law granting pre-emptions operates unequally, unjustly, and oppressively to a large, enterprising, and meritorious class of our fellow-citizens: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be instructed and our representatives requested to procure, if possible, the reduction of the price of public lands to actual settlers in the Miami reserve to one dollar and twenty-five cents per acre.

*Be it further resolved,* That his excellency, the governor, be requested to transmit a copy of this resolution immediately to each of our senators and representatives in congress.

## CHAPTER V.

A Joint Resolution in relation to a mail route from Belleville, in Hendricks County, to Lebanon, in Boone County, in the State of Indiana.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, There is no direct mail route from Belleville, on the Cumberland road, in the county of Hendricks in this state, by the way of Danville and North Salem in said county of Hendricks, and Jamestown to Lebanon in the county of Boone, in this state; AND WHEREAS, The public good demands that such a route be immediately established, with a semi-weekly mail thereon; Therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be instructed, and our representatives in congress be requested to procure the establishment of such mail route, with a semi-weekly mail thereon, at the earliest moment.

SEC. 2. *Be it further resolved,* That his excellency, the governor, be requested to transmit a copy of these resolutions to each of our senators and representatives in congress at as early a day as practicable.

## CHAPTER VI

A Joint Resolution relative to a mail route from Salem to Bloomington.

[APPROVED FEBRUARY 18, 1848.]

WHEREAS, There is no direct mail route from Salem, in Washington county, in this state, by the way of Mount Carmel, through Leesville and Heltonsville, in Lawrence county, and Fairfax to Bloomington, in Monroe county, in this state, and the public good demands such a route should be established, and that post offices should be established at the town of Fairfax, in Monroe county, and Mount Carmel, in Washington county: Therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be instructed, and our representatives in congress requested, to use their influence to procure the establishment of such mail route, and the establishment of the post offices aforesaid.

SEC. 2. *Be it further resolved as aforesaid,* That the governor of this state be requested to transmit a copy of this resolution to each of our senators and representatives in congress at as early a day as practicable.



## CHAPTER VII.

A Joint Resolution in relation to the improvement of the Iroquois and Kankakee rivers, in the State of Indiana.

[APPROVED FEBRUARY 16, 1848.]

*Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be instructed, and our representatives requested, to use their best exertion to procure the passage of a law, by the present congress, granting every alternate section of land belonging to the United States along the Iroquois and Kankakee rivers, in the State of Indiana, for two miles in width on each side thereof, for the purpose of improving the slack water navigation of said rivers.

*Resolved, further,* That his excellency, the governor, be requested to transmit a copy of the foregoing resolution to each of our senators and representatives in congress.

## CHAPTER VIII.

A Joint Resolution relative to the National Road.

[APPROVED FEBRUARY 11, 1848.]

WHEREAS, The Federal Government, in the year eighteen hundred and five, projected the construction of a national road, from the east to the west, and from year to year, until eighteen hundred thirty-seven, made liberal appropriations for the prosecution of that important work :

AND, WHEREAS, In the location of this great thoroughfare through this state, the citizens on the line of said road, under the promise, and on the good faith of the general government, were induced to give up gratuitously the right of way for a McAdamized road through their lands :

AND, WHEREAS, Under the expectation that the general government would complete said road, the legislature of this state was induced to vacate a large portion of the state road which ran parallel with the line of said

road, and the federal government having failed to complete their work, a large portion of our own citizens, the public at large, and the government itself, in the transportation of the great western mail, suffer much inconvenience from the present dilapidated state of the national road : Therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana,* That our senators be instructed, and our representatives requested, to use their exertions to secure the passage of a law by congress surrendering the eastern division of the Cumberland road, in this state, to the state, together with all the materials, construction, &c., on the same, and the right to use the line of said road for the purpose of having it completed by private companies, under acts of incorporation by state authority: *Provided, however,* That the United States may reserve the right to resume the ownership and control of said road at any time by paying the corporators the cost of constructing the same.

SEC. 2. *Resolved,* That the governor be authorized to forward a copy of this joint resolution to each of our senators and representatives in congress.

## CHAPTER IX.

A Joint Resolution in relation to volunteers who have settled on government lands in the great Miami reserve.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, The congress of the United States of America, on the 3d day of August, A. D. 1846, passed an act granting pre-emption rights to such persons as were, or should thereafter become actual settlers on the lands ceded to the general government by the Miami tribe of Indians in the State of Indiana :

AND, WHEREAS, At the time of the passage of said act, many persons who were actual settlers on said lands, and many others who became such since, bravely volunteered their services to the government in the present war with the republic of Mexico, have returned with certificates of honorable discharge, and others yet to return, claiming from the government land



warrants, by virtue of the act of congress of February 11th, 1847, which they are desirous to locate upon those lands which they hold by pre-emption right, under the provisions of the aforesaid act of congress of August 3d, 1846:

AND, WHEREAS, The secretary of the treasury and the commissioner of the general land office have decided that such warrants cannot be located upon any lands, the minimum price of which is more than \$1 25 per acre: Therefore,

SECTION 1. *Be it resolved, by the General Assembly of the State of Indiana*, That our senators in congress be instructed, and our Representatives be requested to use their utmost exertions to procure the passage of an act authorizing the said volunteers to locate their warrants upon such tracts of land in said Miami reserve as they may hold by pre-emption right under the aforesaid act of August 3d, 1846, in part payment therefor; the remainder to be paid in cash at the time of the location of such warrant.

SEC. 2. That his excellency, James Whitcomb, governor of the state, be requested to transmit, without delay, a copy of this joint resolution to each of our senators and representatives in congress.

## CHAPTER X.

A Joint Resolution relating to the Miami Indians.

[APPROVED JANUARY 29, 1848.]

WHEREAS, A few of the Miami Indians who own lands in fee simple in the State of Indiana, have chosen to remain upon their lands instead of removing west of the Mississippi; AND, WHEREAS, The lands of said Indians are taxed in like manner as other citizens are taxed; AND, WHEREAS, The decision of the commissioner of Indian affairs deprives said Indians of their share of annuities by treaty stipulations: Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That our senators in congress be instruct-

ed, and our representatives requested, to use their exertions to procure an act of Congress authorizing and requiring the commissioner of Indian affairs to pay to said Indians who so remain in Indiana, their just and equal share of annuities belonging to said tribe by treaty stipulations; said annuities to be paid at Fort Wayne or some other convenient point near the Wabash river.

*Be it further resolved*, That his excellency, the Governor, be requested to transmit a copy of this resolution immediately to each of our senators and representatives in congress.

## CHAPTER XI.

A Joint Resolution in relation to making compensation to the Adjutant General of the State.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, In the raising and organizing the 4th and 5th regiments of Indiana volunteers, in the year 1847, the adjutant general of said state performed efficiently and with credit to the state much labor, and incurred considerable individual expense:

AND WHEREAS, There is no law providing payment to be made for such services: Therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That our senators in congress be instructed, and our representatives requested to use their influence to procure the passage of a law by congress providing for payment to be made for such services.

SEC. 2. *Be it further resolved*, That the governor be requested to forward a copy of this joint resolution to each of our senators and representatives in congress.



## CHAPTER XII.

A Joint Resolution relative to a marsh and wet tract of land in the counties of Jay and Adams.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, there is a district of country situate in townships twenty-four twenty-five north, of range thirteen and fourteen east, in the counties of Adams and Jay, and district of Fort Wayne, about seven miles in length and one mile in width, which has been for many years in market and unsold, and in its present condition is almost worthless, being an impassable swamp or marsh, and on the account thereof occasioning much ill health and disease to those who reside any where contiguous thereto :

AND WHEREAS, the same might be sold at a reduced price, with a condition that the same should be ditched and channels opened, whereby the water might be freely flowed from said lands, and thereby the health of the neighborhood greatly improved, and the government realize something from the sales, and the state and county derive some revenue therefrom, whilst otherwise it must forever remain unsold and uncultivated, and a mere nuisance to the public :

AND WHEREAS, it is the true policy of our government to bring into cultivation all lands as soon as possible, if they can be rendered suitable for the same : Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be instructed, and our representatives requested, to use all just and honorable means to obtain the passage of a law authorizing the sale of the lands above mentioned to the highest bidder, at such price as they will bring, binding the purchasers with a condition of forfeiture of the land to ditch and drain the same within such reasonable time from the purchase as may be just and proper, and that a certificate of record from some of the county authorities shall be obtained, where the land is situate, that such condition has been complied with, in order to complete the title in the purchaser.

*Be it further resolved,* That the governor of this state be requested to transmit a copy of this preamble and resolution to each of our senators and representatives in congress as soon as practicable.

## CHAPTER XIII.

A Joint Resolution asking the aid of the General Government for the American Colonization Society.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, while we deplore the existence of slavery in some of our sister states, not only as a moral, social, and political evil, but as incompatible with the sacred principles of civil and religious liberty, upon which our government rests, and look upon it as a dark spot which impairs the otherwise beautiful picture of freedom which our country presents to the world, we claim no right and feel no desire to interfere or intermeddle with the institution as it exists in the slave states, trusting that the day is not far distant when the evil will be removed by those who are most deeply involved in its consequences. We are not, however, insensible to the difficulties with which any plan of negro emancipation is beset, yet we hail with pleasure the growing influence of the American Colonization Society in its noble scheme of removing those that are set free to the land of their forefathers, and giving to the heretofore oppressed a home and a country that they can call their own, and thereby plant our own free institutions in a territory hitherto enveloped in the most repulsive barbarism ;

AND WHEREAS, while we should rejoice in the universal emancipation of the slave, we can never consent that Indiana shall be made the receptacle of the manumitted negroes of other states, as their color and character would forbid political and social equality, and their migration here could but be injurious to us and detrimental to them ;

AND WHEREAS, there are numerous persons that would emancipate their slaves if means were provided to remove them from the country ; and in the opinion of this legislature the general government could in no way more effectually aid in the extinction of the evils alluded to, than by assisting the Colonization Society in its philanthropic plan of transporting the colored man to Liberia ; Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our senators be instructed, and our representatives requested, to aid the American Colonization Society in their great undertaking, by urging the passage of a law requiring the government of the United



States to furnish transportation, free of cost, for all persons of color that may apply, through said Society, to be removed to the Republic of Liberia.

*Resolved*, That the governor be requested to forward a copy of the foregoing to each of our senators and representatives in congress.

#### CHAPTER XIV.

A Joint Resolution relative to bounty land warrants.

[APPROVED JANUARY 29, 1848.]

*Be it resolved by the General Assembly of the State of Indiana*, That our senators in congress be instructed, and our representatives requested, to use their exertions to procure the passage of a law authorizing the location of bounty land warrants issued to the Indiana volunteer soldiers, upon the Miami reserve lands in Indiana, upon which there is no pre-emption, or upon the same when the pre-emption right may be transferred to the holder of said warrant, or upon any lands upon which the volunteer or holder of such land warrant, may be entitled to a pre-emption right.

#### CHAPTER XV.

A Joint Resolution for the purpose of procuring a mail route from Brownstown, in Jackson county, Indiana, to David Bowman's, in Salt Creek township, in said county, and from thence to Nashville, in Brown county.

[APPROVED FEBRUARY 16, 1848.]

*Be it resolved by the General Assembly of the State of Indiana*, That our senators in congress be instructed, and our representatives requested, to procure the passage of a law establishing a mail route from Brownstown, in Jackson county, to David Bowman's, in Salt Creek township, in said county, and from thence to Nashville, in Brown county, and state aforesaid.

#### CHAPTER XVI.

A Joint Resolution relative to the reduction of postage on newspapers and periodicals.

[APPROVED FEBRUARY 14, 1848.]

WHEREAS, "knowledge and learning generally diffused through a community are essential to the preservation of a free government;" AND WHEREAS, It is believed that the free periodical press of these United States, next to the primary school system, is the most potent engine for the general diffusion of useful knowledge throughout the community, and that it is the duty of congress, through the medium of the post office department, to grant every facility to, and render as cheap as may be practicable, the circulation of intelligence and knowledge by means of the newspaper and periodical press of the country; Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That our senators in congress be instructed, and our representatives requested, to use their influence to produce such a change in the post office law, that irregular papers, periodicals, pamphlets, or documents that may, by existing laws, be required to be pre-paid before they can be mailed, shall only be charged the same rate of postage as is taxed on periodicals sent by publishers to regular subscribers, and to procure the passage of such laws as will reduce the present rates of postage on all newspapers and periodicals transmitted by mail.

*Resolved, further*, That his excellency the governor, be requested to transmit a copy of the foregoing preamble and resolution to each of our senators and representatives in congress.

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## CHAPTER XVII.

A Joint Resolution of thanks to Captain Simonson and Captain Ford.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That we accept the curiosities presented to the state on behalf of Captain John Simonson of the United States Army in Mexico, by Captain Samuel Ford of the same service, and that they be deposited in the State Library.

SEC. 2. *Be it further resolved*, That the thanks of the state are due, and are hereby tendered to both the distinguished individuals above named, and that we consider this act as an indication of the great love they bear to their, as well as our own noble state.

SEC. 3. *Be it further resolved*, That the success of our arms, and the gallantry and patriotism of our brave officers and soldiers in Mexico, should be held in grateful remembrance by the people of Indiana, and cause us all to be proud of our citizen soldiers.

SEC. 4. *Be it further resolved*, That the governor be requested to forward a copy of these resolutions to Captain John S. Simonson and Captain Lemuel Ford.

## CHAPTER XVIII.

A Joint Resolution of thanks to Elhanan Moberly.

[APPROVED JANUARY 18, 1848.]

WHEREAS, During the sanguinary battle of Buena Vista the standard bearer of the second Indiana regiment fell, and the colors were for a moment prostrated; AND WHEREAS, The young and gallant Elhanan Moberly a private in company F, Lawrence Greys, seized the banner when in reach of the Mexican Lancers and delivered the same to Major Dix, who placed it in the hands of Lieutenant Kunkle, by whom it was borne triumphantly throughout the engagement: Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That the thanks of this General Assembly are hereby tendered to Elhanan Moberly for his gallantry in rescuing the colors of the second regiment of Indiana volunteers, from the grasp of the enemy.

*Be it further resolved*, That the editors of the State Sentinel and State Journal be requested to publish the foregoing preamble and resolutions in their papers, and forward a copy of the same to the said Moberly.

## CHAPTER XIX.

A Joint Resolution accepting the colors of the Third Regiment of Indiana Volunteers.

[APPROVED FEBRUARY 16, 1848.]

*Be it resolved unanimously by the General Assembly of the State of Indiana*, That with feelings of just pride, we receive the colors borne by the third regiment of this State in the battle of Buena Vista, that we appreciate in the highest degree, the distinguished services rendered by that gallant regiment, upon the occasion alluded to, and while we remember that it won for itself in that bloody contest, the proud appellation of "the steadfast third," we have no hesitation in declaring that it contributed as much to the success and triumph of our arms as any other regiment there engaged; that this flag will be cherished by the people of Indiana, "for upon its once fair and beautiful face, is now depicted the horrors of the strife it witnessed in the service of its country. Its soiled and tattered appearance speaks for itself, and is its best history," that this once glittering banner, the gift of beauty to honor, torn by the tempest, bleached by the sun and the sleet, tattered by the bullet, shot, and shell, but dishonored never, shall be preserved as a priceless memento of the heroic and glorious achievements of our patriotic and noble sons.

*Be it further resolved, unanimously*, That in behalf of the people of the State of Indiana, we hereby return our heart-felt thanks to the officers and privates of the third regiment of Indiana volunteers, for the inestimable gift which they have this day presented to their



state; and that these mutilated but honored colors, be now deposited in the State Library, there to be carefully preserved, that our children's children may look upon them and say, "under this ancient banner, fought our heroic fathers."

*Be it further resolved*, That the State Librarian be, and he is hereby empowered and requested to procure a plate of silver to be attached to the standard pole of the third regiment, with these words engraved upon it: "*Third Regiment Indiana Volunteers, BUENA VISTA, 22d and 23d February, 1847.*"

*Be it further resolved*, That the thanks of the people of this state are warmly tendered to Ensign William F. Stewart, who bravely unfurled this banner above the heads of his gallant brothers in arms at Buena Vista, and bore it triumphantly throughout that sanguinary battle field.

*Be it further resolved*, That the officers and men of the first, second, and third regiments of this state, upon every occasion and throughout the time they were in their country's service, have been unexcelled in devotional patriotism, and heroic action; and while we especially return to them the thanks of the people of this state, we claim for them the gratitude and admiration of their countrymen.

*Be it further resolved*, That while we return our gratitude to the living, we will not forget the heroic dead; and that this General Assembly, in common with the people of Indiana, deeply mourn the loss of her brave and patriotic sons who have fallen beneath the flag of their country upon the field of battle, or by the stroke of disease in a foreign and pestilential climate, and that we hereby express our deepest sympathy with their relations and friends.

*Be it further resolved*, That these joint resolutions be spread upon the journals of both houses of this General Assembly.

## CHAPTER XX.

A Preamble and Joint Resolution in relation to the Flag of the second Indiana Regiment.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, It has been communicated to this General Assembly that Capt. L. Sanderson, who commanded the Spencer Greys on the ever memorable battle field of *Buena Vista*, with distinguished valor, has in his possession and proffers to the state the flag of said company which was presented to said company by the patriotic ladies of the city of New Albany, and subsequently adopted as the banner of the second regiment of Indiana volunteers; Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That said flag be accepted by this General Assembly, and deposited among the archives of the state as a memento of the indomitable courage and chivalrous bearing of her sons, an offering which furnishes incontestible proof that on that occasion they did their whole duty.

*Be it further resolved*, That the ceremony of presenting and accepting said flag, take place in the hall of the house of representatives on Saturday the 12th inst. at half past 2 P. M. in the presence of both houses of the general assembly, the governor, judges of the supreme court, and officers of state; and that the honorable Paris C. Dunning, president of the senate, be deputed to receive said flag on behalf of this General Assembly.

*Be it further resolved*, That the thanks of this General Assembly are hereby tendered to Captain William L. Sanderson, and his brave companions in arms for so valuable a gift.

*Be it further resolved*, That we hereby tender our thanks to Lieutenant Kunkle who bore aloft and defended the banner of Indiana in the battle of Buena Vista.

*Be it further resolved*, That the volunteers of the State of Indiana, who responded to the call made upon them for military service have nobly sustained the honor of the State.

*Be it further resolved*, That the cloud which rested for a time upon the fame of the second Indiana Regiment, has but added to their honor by inviting a scrutiny into its conduct, which has shown it to have been brave and dauntless in battle.



*Be it further resolved*, That the governor be requested to forward to the patriotic ladies of the city of New Albany (who presented said flag to said company) the Spencer Greys, Captain William L. Sanderson and Lieutenant Kunkle, copies of the foregoing preamble and resolutions.

### CHAPTER XXI.

A Joint Resolution in relation to the claims of the State of Indiana upon the United States for expenses incurred in raising troops for the Mexican war, upon the requisitions of the Secretary of War.

[APPROVED FEBRUARY 16, 1848.]

*Be it resolved by the General Assembly of the State of Indiana*, That the governor of the state be, and he is hereby requested to present to the secretary of war a statement of the amount expended by the State of Indiana in raising troops under the requisitions of the War Department for service in Mexico, and to ask that the same may be refunded by the United States.

### CHAPTER XXII.

A Joint Resolution of sympathy with Pope Pius the Ninth for his efforts in behalf of liberal reform in his dominions.

[APPROVED FEBRUARY 12, 1848.]

WHEREAS, This General Assembly, in common with the people of the whole state, have watched with feelings of the liveliest interest the recent progress of the cause of popular freedom in the states subject to Pope Pius the Ninth, and have felt the profoundest admiration for the firm, steady, and unfaltering course pursued by him in advancing those liberal and judicious reforms so essential to the weal of his people,

despite the frowns of despots and the menaces of some of the crowned heads of Europe. Enjoying ourselves the richest blessings of free institutions, we can never cease to be solicitous for the freedom and happiness of our fellow beings in the old world, and especially those who dwell beneath the sunny skies of Italy, once the proud theatre of the great and good of ancient times, the seat of learning and science, the land of eloquence and song, and the home of heroes and statesmen; Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That we tender to Pope Pius the Ninth, in behalf of the people of the state, our warmest sympathies for the many salutary reforms in government by him effected, and his steady and unceasing efforts in the extension of the rights of the masses within his dominions.

*Resolved*, That the governor be requested to transmit a copy of the above to the sovereign of the Roman states.

### CHAPTER XXIII.

A Joint Resolution relative to the Indiana State Historical Society]

[APPROVED FEBRUARY 12, 1848.]

*Be it resolved by the General Assembly of the State of Indiana*, That the state librarian is hereby directed to set apart one of the committee rooms on the lower floor of the capitol for the purpose of being fitted up to receive the library and cabinet of the Indiana State Historical Society, and in which to hold their meetings: *Provided*, That such occupancy of the room shall in no wise interfere with its use by any committee of the general assembly.



## CHAPTER XXIV.

A Joint Resolution in relation to the Education Society of Indiana.

[APPROVED FEBRUARY 16, 1848.]

*Be it resolved by the General Assembly of the State of Indiana,* That the board of education of the society for that purpose, have leave to occupy the north-east committee room in the state house for their meetings, at all times when not in use by the general assembly.

## CHAPTER XXV.

A Joint Resolution relative to International Literary Exchanges.

[APPROVED FEBRUARY 12, 1848.]

*Be it resolved by the General Assembly of the State of Indiana,* That the duties devolved on the secretary of state by a joint resolution approved January 15, 1844, and also a joint resolution approved January 27, 1847, both in relation to international literary exchanges, be, and the same are hereby devolved on the state librarian; who is directed to fit up in the state library rooms all necessary shelves and cases for the reception and safe keeping of such exchanges as shall be presented to the state, and who shall also, in his annual report to the General Assembly, make a separate and detailed statement of their extent and condition.

*Be it further resolved,* That Alexandre Vattemare, who projected said system of international exchanges, and is now in the United States with the view to its more perfect development and general adoption, is justly entitled to the thanks of the general assembly and the people of Indiana for his exalted and untiring efforts in establishing for them a direct intercourse with the minds and hearts of Europe, of which valuable fruits have already been tendered to the state; and in testimony of their appreciation of his eminent services the said Alexandre Vattemare is hereby invited by the General Assembly to visit the capital of Indiana at his earliest convenience, for the purpose of conferring with the governor in rela-

tion to his system of exchanges and the best method of rendering it permanently subservient to the welfare of the state; and the governor is hereby authorized to adopt any and all such arrangements within the means granted by this resolution as will most effectually and amply accomplish the objects in view.

*Be it further resolved,* That said Alexandre Vattemare is hereby constituted the agent of this state in effecting international exchanges with such governments, public institutions, and cities of Europe as shall adopt his system; and for the necessary expenses to render such agency permanent and effective, an annual sum not exceeding four hundred dollars is hereby appropriated to be paid out of the treasury on the warrant of the auditor of state, who shall issue the same on the certificate of the governor that the amount certified has been properly expended.

*Be it further resolved,* That there shall be annually printed and bound fifty extra copies of all laws, resolves, journals, and legislative documents, which shall be especially set apart for international exchanges; and the governor and state librarian are hereby authorized to select such duplicate works in the state library as can be spared to be used for the same purpose.

*Be it further resolved,* That the "instructions on the best mode of collecting, preserving, and transporting objects of natural history," which were communicated with the documents accompanying the governor's special message, be added to the Documentary Journal, and that five hundred extra copies be printed for distribution under the direction of the governor, with such other documents as he shall deem useful and proper.

*Be it further resolved,* That the governor be requested to communicate a copy of this joint resolution to said Alexandre Vattemare.



## CHAPTER XXVI.

A Joint Resolution on the subject of the laws of the Indiana Territory for the years 1801, 1802, 1803, and 1804.

[APPROVED FEBRUARY 12, 1848.]

*Be it resolved by the General Assembly of the State of Indiana,* That his excellency, the governor, be, and he is, hereby, requested to open a correspondence with the secretary of state of the United States, for the purpose of procuring for the use of the State of Indiana, copies of all the laws which were adopted and published by the governor and judges of the Indiana Territory during the years 1801, 1802, 1803, and 1804.

## CHAPTER XXVII.

A Joint Resolution in relation to certain Canal Funds.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, It appears by a communication from the auditor of state, to the committee of ways and means, that doubts have arisen in regard to the proper disposition of certain moneys in the state treasury, arising from the dues collected on the Wabash and Erie Canal prior to the conveyance of the same to the trustees: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That the treasurer of state be, and he is, hereby, authorized to pay upon the proper warrant of the auditor to the trustees of the Wabash and Erie Canal, the amount in the state treasury derived from the tolls and water rents and other sources of revenue of the said canal, after retaining therefrom a sufficiency to meet the demand against the state on account of the North Port feeder dam, any advances made by the state on account of the Wabash and Ohio Canal, and any other claims properly chargeable upon said fund.

## CHAPTER XXVIII.

A Joint Resolution relative to the claim of Col. Francis Vigo, late a citizen of Knox county, Indiana.

[APPROVED JANUARY 27, 1848.]

WHEREAS, Col. Francis Vigo, late a citizen of Knox county, Indiana, deceased, had a claim against the State of Virginia for the sum of eight thousand six hundred and sixteen dollars, for advances made to the troops under the command of General George Rogers Clark, in what was called the "Illinois Campaign," undertaken by that state in seventeen hundred seventy-eight and nine, which claim has been audited and allowed by the State of Virginia, and is now before the Congress of the United States on application for settlement:

AND WHEREAS, It is matter of history that but for the advances of said Vigo to Gen. Clark in the campaign aforesaid, the troops under his command could not have been supported, and the expedition must have been abandoned, and that by means thereof General Clark was enabled to capture Hamilton, subdue Post Vincennes, and thereby acquire the whole north western territory, adding to our glorious confederacy the three great States of Indiana, Illinois, and Michigan:

AND WHEREAS, We believe that the claim of said Vigo is just, due, and unpaid, and that the same should long since have been settled by the United States government: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be instructed, and our representatives requested to endeavor to procure the passage of a law providing for the payment of said claim.

*Resolved further,* That his excellency, the governor, be requested to transmit a copy of the foregoing preamble and resolution to each of our senators and representatives in congress.



## CHAPTER XXIX.

A Joint Resolution in relation to the contract entered into between the State of Indiana and her bondholders.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, The law to provide for the payment of the funded debt of the State of Indiana, and to complete the Wabash and Erie Canal to Evansville, and the supplemental act thereto, were accepted by our bondholders in full view of all the obligations and liabilities incurred thereby: AND WHEREAS, The said laws provide for the construction of the side-cuts at Independence and Williamsport within eighteen months from the time of the acceptance of said acts by our bondholders, and also the side-cuts at Clinton contemporaneously with the main line of the canal: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That while we reaffirm our determination to carry out in good faith our part of the contract mutually entered into between the State of Indiana and her bondholders, we will also require the contract to be strictly adhered to in spirit and in letter by their trustees.

*Be it further resolved,* That his excellency, the governor, be requested to forward a copy of the above preamble and joint resolutions to the trustees of the Wabash and Erie Canal, at their office in Terre Haute.

## CHAPTER XXX.

A Joint Resolution on the subject of reducing the price of our public lands.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, It is the true interest and policy of all agricultural countries to bring into actual cultivation as much of the soil as may be necessary for the wants of a great and prosperous people, in all the varied pursuits of human life, at an early day as possible, and consistent with the other interests of a great and

increasing commonwealth; AND WHEREAS, The history of the past and also the present teacheth the important fact, that all newly discovered countries are first settled and changed from their wild, rude, and natural state, by that portion of mankind who are generally poor, yet honest and industrious, and are, in most instances, forced from want and laudable ambition from the lands of their fathers, to seek a home in the desert waste, and thus invite future emigration: AND WHEREAS, We deem it of great and lasting importance not only to the several states and territories of this union in their individual capacities, but also of great and momentous interest to them in their federal relation and character at the present time, that a graduation of the prices of their public domain should take place: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our senators in congress be and they are hereby instructed, and our representatives in congress requested, to use their influence in procuring the passage of a law having for its object the graduation of the price of our public lands upon such terms as they may think both reasonable and proper, at as early a day as possible.

*And be it further resolved,* That his excellency, the governor, be requested to transmit, by mail, a copy of this resolution to each of our senators and representatives in congress.



STATE OF INDIANA, SECRETARY'S OFFICE, SS.

I, JOHN H. THOMPSON, Secretary of State for the State aforesaid, certify that I have compared the foregoing with the enrolled acts and joint resolutions from which they were taken, now on file in my office, and have found them correctly printed. A few words designated [thus,] were inserted by me, in order to aid the sense.

In Witness Whereof, I have hereunto set my hand and affixed  
[SEAL.] the seal of the State, at the city of Indianapolis, the first day  
of April, A. D. 1848.

JOHN H. THOMPSON,  
*Secretary of State.*

## EXTRACT

FROM THE

### REPORT OF THE AUDITOR OF STATE,

*Showing the Receipts and Expenditures of the State, "for the fiscal year  
ending October 31st, 1847."*

AUDITOR OF STATE'S OFFICE. }  
*Indianapolis, Indiana, November 6, 1847.* }

#### *To the General Assembly:*

The 12th and 13th sections of article 3, chapter 6, of the Revised Statutes of 1843, make it the duty of the State Auditor "to report and exhibit to the General Assembly, at its annual meeting, a complete statement of the revenues, taxables, funds, resources, incomes, and property of the state known to his office, and of the public revenues and expenditures to be defrayed from the treasury for the ensuing year, specifying therein each object of expenditure, and distinguishing between each object of expenditure, and between such as require to be provided for by law; and showing also the sources and means from which all such expenditures are to be defrayed, and the probable deficiencies of the same;" and also, "to suggest plans for the improvement and management of the public revenues, funds and incomes."

In obedience to these requirements, and various other laws relating to the duties of his office, the Auditor of State respectfully submits to the General Assembly the following

#### REPORT:

The several funds of the state, (whether belonging to the state or held only in trust,) an account of which is embraced in this report, with such remarks relative to each as have suggested themselves as worthy of the consideration of the General Assembly, or necessary to a proper explanation, are as follows, viz:



1. The General Fund,
2. The University Fund,
3. The Saline Fund,
4. The Bank Tax Fund,
5. The County Seminary Fund,
6. The Surplus Revenue Fund,
7. The Congressional Township Fund,
8. The Three per cent. Fund,
9. The Common School Fund,
10. The Indianapolis Fund,
11. The Treasury Fund,
12. Estates without Heirs,
13. The Internal Improvement Fund,
14. The Fund for Lunatic Asylum,
15. The Fund for Deaf and Dumb Asylum,
16. The Fund for Asylum for the Blind.

### RECEIPTS AND EXPENDITURES FOR THE FISCAL YEAR.

The following statement is a condensed exhibit of the whole amount received into the treasury, and paid from it for the support of the Government, and on account of the various trust funds, for the year ending October 31, 1847, viz:

#### RECEIVED. (See Statement No. 1.)

Permanent revenue,	\$335,302 67
On account of arrears, sales, and redemption of lands for taxes,	27,044 40
Trust funds,	23,629 57
Internal improvement fund,	319,741 53
Common school fund,	87,236 88
Miscellaneous,	1,070 28
Cash on hand at close of last year,	589,360 68
	<u>\$1,383,385 99</u>

#### PAID OUT. (See Statement No. 1.)

Amount of ordinary expenses,	\$90,762 37
Trust funds,	73,529 35
Internal improvement fund,	464,185 36
Miscellaneous,	21,391 97

Redemption of Treasury five per cent. and six per cent. notes,	305,535 73
	<u>\$955,404 78</u>
Excess of Receipts, mostly in Treasury Notes and Wabash and Erie Canal Scrip,	427,981 21
	<u>\$1,383,385 99</u>

### CONDITION OF THE TREASURY AND OF THE SEVERAL FUNDS.

The following statements show the condition of the Treasury on the 31st of October last, the items of which the several funds consist, the amount received and paid of each fund during the fiscal year, the amount and items which constitute the ordinary expenses of the past year, and an estimate of the probable receipts and expenditures for the current year, ending October 31, 1848:

#### NO. 1—GENERAL FUND.

##### RECEIPTS AT THE TREASURY.

There was remaining in the Treasury at the close of the last financial year, provided all warrants audited to that time had been paid, the sum of - \$589,360 68

There has been received during the financial year, ending with October 31, 1847, inclusive, as follows, viz:

On account of Revenue of 1839, the sum of	\$39 39
On account of Revenue of 1840, the sum of	5 85
On account of Revenue of 1841, the sum of	145 20
On account of Revenue of 1842, the sum of	125 79
On account of Revenue of 1843, the sum of	1,173 36
On account of Revenue of 1844, the sum of	1,159 29
On account of Revenue of 1845, the sum of	23,803 52
On account of Revenue of 1846, the sum of	334,814 67
On account of Delinquent Revenue of 1846, collected Through the State Treasury, the sum of	680 55
On account of Revenue of 1847,	48 00
On account of sales of Saline lands in Orange and Washington counties,	3,064 64
On account of interest from purchasers of Saline Lands in Orange, Washington, and Brown counties,	610 70
On account of loans of Saline Fund refunded by borrowers,	1,614 05



On account of interest on loans of saline fund from borrowers, - - - - -	1,824 20
On account of damages on sales of lands mortgaged to saline fund, - - - - -	60 00
On account of costs of advertising saline fund refunded, - - - - -	17 00
On account of loans of university fund refunded by borrowers, - - - - -	3,423 25
On account of interest on loans of university fund from borrowers, - - - - -	3,878 05
On account of sales of university lands in Monroe and Gibson counties, being principal from purchasers, - - - - -	834 72
On account of interest on sales of university lands, from purchasers in Gibson and Monroe counties, - - - - -	1,088 38
On account of damages on sales of lands mortgaged to university fund, - - - - -	208 41
On account of costs of advertising delinquent borrowers of university funds refunded, - - - - -	48 50
On account of loans of bank tax fund refunded by borrowers, - - - - -	1,078 73
On account of interest on loans of bank tax fund from borrowers, - - - - -	1,054 59
On account of damages on sales of lands mortgaged to bank tax fund, - - - - -	25 00
On account of costs of advertising delinquent borrowers of bank tax fund refunded, - - - - -	6 00
On account of bank tax fund derived from the several branches of the state bank, - - - - -	3,019 29
On account of interest on loans of surplus revenue fund, - - - - -	410 74
On account of loans of surplus revenue fund, refunded by borrowers, - - - - -	352 55
On account of damages on sales of lands mortgaged to surplus revenue fund, - - - - -	70 55
On account of costs of advertising delinquent borrowers of surplus revenue fund refunded, - - - - -	4 00
On account of loans of congressional township fund refunded by borrowers, - - - - -	283 50
On account of interest on loans of congressional township fund by borrowers, - - - - -	27 72
On account of loans refunded by borrowers of treasury fund, - - - - -	500 00
On account of interest on loans of treasury fund by borrowers, - - - - -	390 28
On account of costs of advertising delinquent borrowers of treasury fund refunded, - - - - -	8 00
On account of damages on sales of lands mortgaged to treasury fund, - - - - -	78 17

On account of sales of Wabash and Erie canal lands east of Tippecanoe, being principal paid by purchasers, - - - - -	49,646 12
On account of interest on sales of Wabash and Erie canal lands east of Tippecanoe, - - - - -	30,893 75
On account of tolls on Wabash and Erie canal east of Tippecanoe, - - - - -	103,956 96
On account of water rents on Wabash and Erie canal east of Tippecanoe, - - - - -	125 00
On account of penalties from delinquent purchasers of Wabash and Erie canal lands east of Tippecanoe, - - - - -	358 51
On account of sales of Wabash and Erie canal lands west of Tippecanoe, - - - - -	67,290 75
On account of penalties from delinquent purchasers of Wabash and Erie canal lands west of Tippecanoe, - - - - -	517 58
On account of interest on sales of Wabash and Erie canal lands west of Tippecanoe from purchasers, - - - - -	1,679 29
On account of costs of advertising delinquent purchasers of Wabash and Erie canal lands east of Tippecanoe refunded, - - - - -	26 50
On account of water rents on the northern division of the Central canal, - - - - -	151 50
On account of tolls on New Albany and Vincennes road, - - - - -	4,692 65
On account of sales of lots in Indianapolis, - - - - -	131 25
On account of interest on sales of lots in Indianapolis, - - - - -	103 59
On account of the Indianapolis fund, - - - - -	2 00
On account of three per cent. refunded, having been erroneously audited, - - - - -	193 12
On account of internal improvement warrants redeemed by suspended debt, - - - - -	21,738 07
On account of state house expenses refunded, - - - - -	2 50
On account of estates without known heirs, - - - - -	364 52
On account of loan of internal improvement fund refunded by Lawrenceburgh and Indianapolis railroad company, - - - - -	19,460 11
On account of collections by agent of state from the suspended debt east, - - - - -	19,204 74
On account of sales of Revised Statutes by county treasurers, - - - - -	173 30
On account of sales of Michigan road lands, - - - - -	100 00
On account of the common school fund derived from bank profits, - - - - -	87,236 86
<hr/>	
Total receipts from November 1st, 1846, to October 31st, 1847, (including balance on hand November 1st, 1846.) - - - - -	\$1,383,885 99



## EXPENDITURES.

During the financial year, closing October 31st, 1847, there have been audited the following sums, viz :

On account of probate judges, - - - - -	\$4,998 00
On account of transportation of convicts to state prison, and salaries of officers, - - - - -	2,609 97
On account of salaries of supreme and circuit judges, - - - - -	14,659 46
On account of specific appropriations made by General Assembly, - - - - -	11,193 18
On account of public printing and binding of laws and journals of General Assembly, - - - - -	7,360 97
On account of pay and mileage of members of the last General Assembly, including pay of clerks, doorkeepers, and other officers, - - - - -	29,220 24
On account of salaries of prosecuting attorneys, - - - - -	1,964 67
On account of appropriations to state library, including salary of librarian for 1847 and part of 1846, - - - - -	1,558 07
On account of salaries of adjutant and quarter-masters general, - - - - -	850 00
On account of salaries of executive officers, during the past year, including payments for previous years, - - - - -	9,101 18
On account of distribution of laws and journals of the last General Assembly, - - - - -	436 71
On account of repairs and furnishing governor's house, - - - - -	855 15
On account of wolf scalp certificates, - - - - -	3 00
On account of governor's circle, - - - - -	64 16
On account of transportation of public arms, - - - - -	588 51
On account of furniture for asylum for blind, and salaries of teachers and officers, - - - - -	7,053 57
On account of specific appropriations of Indianapolis fund, - - - - -	675 00
On account of lunatic asylum, - - - - -	19,992 58
On account of interest on congressional township fund distributed to townships, - - - - -	63 70
On account of deaf and dumb asylum, - - - - -	17,767 21
On account of contingent fund distributed, - - - - -	619 30
On account of payments of internal improvement warrants outstanding under joint resolution of General Assembly, - - - - -	5,292 06
On account of incidental and traveling expenses of agent of state for 1846, - - - - -	2,860 84
On account of expenses incident to collecting the suspended debt by the state agent in 1846, - - - - -	1,160 74

On account of stationery and fuel for the General Assembly and state offices, - - - - -	3,093 36
On account of the new state prison building, - - - - -	18,440 33
On account of salaries of president and professors of state university during three quarters of 1847, - - - - -	2,925 00
On account of state house repairs and furniture, - - - - -	1,586 75
On account of five per cent. treasury notes redeemed and cancelled, - - - - -	100,320 00
On account of interest on five per cent. treasury notes redeemed and cancelled, - - - - -	16,073 37
On account of six per cent. treasury notes redeemed and cancelled, - - - - -	148,510 00
On account of interest on six per cent. treasury notes redeemed and cancelled, - - - - -	40,632 36
On account of expenses of treasury notes cancelled, - - - - -	334 57
On account of three per cent. fund distributed to the several counties, under apportionment of 1844, - - - - -	1,544 96
On account of revenue of 1842 refunded, - - - - -	13 08
On account of revenue of 1843 refunded, - - - - -	19 97
On account of revenue of 1845 refunded, - - - - -	122 63
On account of revenue of 1846 refunded, - - - - -	123 15
On account of loans of treasury fund refunded, - - - - -	67 31
On account of interest on loans of treasury fund, - - - - -	47 22
On account of costs of advertising loans of treasury fund, - - - - -	3 75
On account of damages on sales of mortgaged lands to treasury funds, - - - - -	78 17
On account of costs of advertising delinquent borrowers of saline fund, - - - - -	51 75
On account of principal refunded to purchasers of saline lands in Orange county, under special act of General Assembly, - - - - -	2,048 69
On account of expenses of saline fund, - - - - -	130 15
On account of damages on sales of mortgaged lands to saline fund, - - - - -	60 00
On account of saline fund distributed to counties, - - - - -	7,045 56
On account of loans of university fund to borrowers, - - - - -	3,660 50
On account of damages on sales of lands mortgaged to university fund, - - - - -	207 39
On account of interest on loans of university fund refunded, - - - - -	4 74
On account of advertising delinquent borrowers of university fund, - - - - -	126 50
On account of expenses incident to management of university fund, - - - - -	14 62
On account of costs of advertising delinquent borrowers of bank tax fund, - - - - -	23 00
On account of bank tax fund distributed to counties, - - - - -	11,795 38



On account of costs of advertising delinquent borrowers of surplus revenue fund, - - - - -	6 50
On account of damages on sales of lands mortgaged to surplus revenue fund, - - - - -	70 55
On account of interest on surplus revenue distributed to Lake, Wells, and De Kalb counties, - - - - -	403 49
On account of construction of Wabash and Erie Canal east of Tippecanoe, - - - - -	19,326 03
On account of repairs of Wabash and Erie Canal east of Tippecanoe, - - - - -	55,929 19
On account of expenses incident to management of Wabash and Erie Canal east of Tippecanoe, - - - - -	4,777 67
On account of damages refunded to delinquent purchasers of Wabash and Erie Canal lands east of Tippecanoe, - - - - -	1,332 00
On account of principal refunded of Wabash and Erie Canal lands east of Tippecanoe, - - - - -	374 88
On account of interest on sales of Wabash and Erie Canal lands east of Tippecanoe refunded, - - - - -	271 71
On account of Wabash and Erie Canal scrip east of Tippecanoe redeemed and cancelled, - - - - -	90,464 85
On account of interest on Wabash and Erie Canal scrip east of Tippecanoe, redeemed and cancelled, - - - - -	7,959 00
On account of tolls of Wabash and Erie Canal east of Tippecanoe, refunded and expended, - - - - -	7,002 00
On account of penalties on delinquent purchasers of Wabash and Erie Canal lands east of Tippecanoe, refunded, - - - - -	76 52
On account of construction of Wabash and Erie Canal west of Tippecanoe, - - - - -	7,903 03
On account of repairs of Wabash and Erie Canal west of Tippecanoe, - - - - -	27,330 77
On account of expenses incident to the management of the Wabash and Erie Canal west of Tippecanoe, - - - - -	3,535 10
On account of damages for right of way of Wabash and Erie Canal west of Tippecanoe, - - - - -	20,030 00
On account of principal refunded to purchasers of Wabash and Erie Canal lands west of Tippecanoe, - - - - -	5 39
On account of penalties on delinquent purchasers of Wabash and Erie Canal lands west of Tippecanoe, - - - - -	417 41
On account of Wabash and Erie Canal scrip west of Tippecanoe river, redeemed and cancelled, - - - - -	191,150 00
On account of repairs on the northern division of the Central Canal, - - - - -	10,587 13

On account of expenses incident to the management of the northern division of the Central canal, - - - - -	436 50
On account of construction of New Albany and Vincennes road, - - - - -	362 63
On account of repairs of New Albany and Vincennes road, - - - - -	1,968 60
On account of expenses incident to the management of New Albany and Vincennes road, - - - - -	2,361 42
On account of incidental expenses of Wabash and Ohio canal, - - - - -	1,111 76
On account of damages for right of way of Eel river Cross Cut canal, - - - - -	158 03

Total amount audited from November 1, 1846, to October 31, 1847, both days inclusive, - - - \$955,404 78

#### STATE OF THE TREASURY.

Balance in the treasury on the 31st October, 1846, - - -	589,360 63
Amount of receipts at the treasury on account of all funds, during the year ending October 31, 1847, - - -	794,025 31
	<hr/> \$1,383,385 99

The amount of warrants drawn on the treasury, on account of all the funds, during the year ending October 31st, 1847, is - - - 955,404 78

Balance, if all warrants were paid, - - -	\$327,981 21
To which should be added for out-standing warrants drawn on the treasury, remaining unpaid on the 31st of October, 1847, as follows, viz:	
No. 1774, \$1750 00—No. 1953, \$15 00—No. 1954, \$12 00—No. 2007, \$12 00—No. 2143, \$1,956 00, - - -	3,745 00

Balance in the treasury on the 31st of October, 1847, \$431,726 21

Notwithstanding the large sum thus reported to be in the treasury, on the 31st of October, the amount actually on hand, applicable to the ordinary expenses of the government, is, in fact, quite inconsiderable. A large amount of it consists of treasury notes, received for state revenue, bank scrip redeemed by the commissioners of the sinking fund, and Wabash and Erie canal scrip east and west, received on sales of land. Included in it, also, is the amount paid in July, towards the interest on the state debt, together with several thousand dollars paid for the repair of the Central canal, which, being advanced upon requisitions, will not appear on the books, until the requisitions are cancelled and warrants issued. Of



the residue, a considerable amount has been audited and paid since the close of the fiscal year, for the various salaries and allowances of the quarter just expired.

The amount which will probably be received on account of the revenue of 1847, and from other sources, will, it is hoped, enable the treasury to meet the ordinary demands upon it, which, for the current quarter, must be necessarily large. For the purpose of meeting these demands, and also as much as possible of the interest of the public debt due on the first of January, the treasurer of state has forwarded a circular to each of the county treasurers, urging them to send forward, with all convenient despatch, as much as may be collected of the revenue of 1847. What amount may be thus sent in anticipation of the final settlement, is, of course, wholly uncertain. Information on this point will no doubt be cheerfully furnished by the treasurer, when it becomes necessary, as it probably may, to make other temporary arrangements to meet the January interest. Up to this time but little has been received from this source, and almost all of that in treasury notes, which, so far as meeting the demands on the treasury is concerned, might as well have been retained until the settlement in February. The exact amount which will be needed to meet the interest on the public debt, due in January, is not known at this office, but may be correctly ascertained from the report of the agent of state, which will no doubt be made to the General Assembly at an early period of the session.

### ORDINARY EXPENSES OF THE STATE GOVERNMENT FOR 1847.

The ordinary expenses of the state government for the year ending October 31st, 1847, have been as follows, to wit:

Amount audited on account of probate judges,	\$4993 00
Amount audited on account of state prison,	2,609 97
Amount audited on account of salaries of judges,	14,659 45
Amount audited on account of state house,	1,586 75
Amount audited on account of specific appropriations	11,193 18
Amount audited on account of public printing,	7,360 97
Amount audited on account of prosecuting attorneys,	1,964 67
Amount audited on account of legislature,	29,220 24
Amount audited on account of state library,	1,558 07
Amount audited on account of militia,	850 00
Amount audited on account of stationery and fuel,	3,093 36
Amount audited on account of executive officers,	9,101 18
Amount audited on account of contingent fund,	619 30
Amount audited on account of governor's circle,	64 16

Amount audited on account of distribution of laws, &c.,	436 71
Amount audited on account of governor's house,	855 15
Amount audited on account of wolf scalps,	3 00
Amount audited on account of public arms, (transportation,)	588 51
Total,	\$90,762 67
The estimate of last year, for <i>ordinary</i> expenses of 1847, was	67,400 00
Showing a deficiency in the estimate of last year of	\$23,362 67
The actual expenses properly denominated <i>ordinary</i> , for the year 1846, were	69,136 59
Which, taken from those of 1847, as above,	90,762 67
Shows an excess of 1847, over 1846, of	\$21,626 08

This apparent increase of the ordinary expenses of the past year may be accounted for as follows: A large amount of claims belonging to previous years, much of which had been paid but remained unsettled at the close of the year 1846, has been audited during the past fiscal year, and for the first time brought upon the books of the treasury department. This was especially the case in reference to that class of claims denominated "executive." By reference to the executive account of 1846, it will be seen that but \$2,000 was audited during that fiscal year. During the past year, as will be seen by reference to the above statement, there has been audited, under that head, the sum of \$9,101 18. As the annual salaries of the executive officers amount only to \$4,100, and, including all allowance for clerks, to only \$4,700, the remaining sum of \$4,401 18, audited during the fiscal year just closed, belonged of course to the arrearages of former years. By reference also to the estimated amount necessary to defray the expenses of all "specific appropriations" for 1847, it will be seen that the sum of \$3,500 was deemed sufficient, although the expenditures under that head for 1846 had actually amounted to \$6,228 95. The foregoing statement shows the unusually large sum of \$11,193 18 paid on claims of that denomination for the year just closed. The great increase of the amount expended over the amount estimated, may, in part, be explained by stating, that the account of 1847 includes the sum of \$3,544 96, appropriated by the last General Assembly for advances by the several branches of the state bank, on the requisition of the executive, to defray the expenses growing out of the organization of the Indiana volunteers for the Mexican war; the sum of \$1,956 for the 7th volume of Blackford's Reports; the sum of \$800 to defray the expenses of removing the remains of the late



Hon. T. A. Howard from Texas to his late residence; and the sum of \$1,310 for the prosecution of an impeachment case before the last General Assembly—amounting in the whole to \$7,610 96.—These several appropriations, though belonging to a class of accounts properly denominated *ordinary*, are nevertheless extraordinary and unforeseen, and could not therefore be provided for in any estimate of probable expenses for the year.

From the foregoing specifications, referred to as a sample of the accounts which show an increase of expenses over former years, the increase will be seen to arise from accidental causes, and not from any enlargement of salaries or allowances. The salaries of the various officers, legislative, judicial, and executive remaining the same, or very nearly the same, for several years past, the apparent differences between the expenditures of the several years for these objects, cannot appropriately be denominated either *retrenchment* or *increase* of expenses, but arise from the circumstance of more or less of the claims being audited during any particular year.

#### NO. 14.—LUNATIC ASYLUM.

There have been received from revenue on account of this fund as follows, viz:

From revenue of 1844,	\$10,581 00
From revenue of 1845,	9,611 00
	<hr/>
Total receipts to close of financial year, 1846,	\$20,192 00
There was audited on account of this institution, up to close of 1846, the sum of	13,148 22
	<hr/>
Balance to credit of this fund at close of 1846,	\$7,043 78
There was received and set apart from the revenue of 1846, to the credit of this fund, during the financial year ending Oct. 31, 1847, the sum of	10,104 50
There has been received during the same period, from sale of lots in Hospital Square, the sum of	283 33
The amount received from rents during the same period, is	90 50
There has been received and set apart of delinquent revenue of 1845, during the same period, the sum of	695 00
	<hr/>
Total,	\$18,217 11
There has been audited on account of this fund, during the year ending Oct. 31, 1847, the sum of	19,992 58
	<hr/>
Amount of this fund overdrawn up to 31st of October 1847,	\$1,775 47

#### NO. 15.—DEAF AND DUMB ASYLUM.

There have been set apart from the revenues of the respective years, to the credit of the deaf and dumb asylum, the following amounts, to-wit:

##### RECEIPTS.

From the revenue of 1843,	\$1,871 00
From the revenue of 1844,	2,116 00
From the revenue of 1845,	4,805 00
From delinquent revenue of 1845,	347 50
From the revenue of 1846,	5,052 25
From appropriations of 1846 of general fund,	3,000 00
	<hr/>
Total receipts,	\$17,191 75

##### EXPENDITURES.

Amount expended in 1843,	\$200 00
Amount expended in 1844,	1,168 75
Amount expended in 1845,	2,797 87
Amount expended in 1847,	17,767 21
	<hr/>
Total expended to close of financial year 1847,	21,933 83
The receipts as above, deducted,	17,191 75
	<hr/>
Excess of expenditure,	\$4,742 08

#### NO. 16.—ASYLUM FOR THE BLIND.

There was received of this fund and set apart from the revenue of 1845, the sum of	\$1,918 06
There was audited and paid out, on account of this fund up to Oct. 31, 1846, the sum of	474 87
	<hr/>
Balance to credit of fund at close 1846,	\$1,443 19
There has been set apart from the revenue of 1846, on account of this fund, the sum of	2,020 90
There has been received from delinquent taxes of 1845, collected during 1846, the sum of	189 00
	<hr/>



Making,	\$3,603 09
There was appropriated from the general fund, by the act of Jan. 27, 1847, the sum of	5,000 00
Total,	<u>\$8,603 09</u>
Amount audited and paid during the year ending Oct. 31, 1846,	7,053 57
Balance to credit of this fund at close of financial year 1847,	<u>\$1,549 52</u>

*Five per cent. Treasury Notes.*

The amount of these notes issued under the act of Jan. 31, 1842, for advances by the several branch banks to the internal improvement fund, was	\$722,640 00
The amount cancelled up to January 17, 1846,	287,335 00
Amount outstanding January 17, 1846,	<u>\$435,305 00</u>
Amount cancelled January 23, 1847,	100,320 00
Amount outstanding on January 23, 1847,	<u>\$334,985 00</u>
Amount in treasury not cancelled,	65,030 00
Leaving outstanding October 31, 1847,	<u>\$269,955 00</u>

*Interest on Five per cent. Treasury Notes.*

The amount of interest allowed at treasury on these notes, up to January 17, 1847, was	\$19,042 10
Amount allowed on those cancelled January 23, 1847,	16,073 37
	<u>\$35,115 47</u>
Amount due on \$65,030 in treasury but not cancelled,	16,559 83
Total interest to this date,	<u>\$51,675 30</u>

*Five per cent. treasury notes redeemed and interest.*

The total payments for redemption of these notes for principal, are to Oct. 31, 1847,	\$452,685 00
Amount allowed as interest on same,	51,675 30

Total allowed on five per cent. treasury notes to Oct. 31st, 1847,	<u>\$504,360 30</u>
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*Six per cent treasury notes.*

The amount of six per cent. treasury notes, issued under the act of February 15, 1840, was	\$1,500,000
Amount redeemed and cancelled up to the 17th of January, 1846,	1,008,700
	<u>\$491,300</u>
Amount redeemed by revenue of 1845, and cancelled January 23, 1847,	148,510
	<u>\$342,790</u>

Amount now on hand to be cancelled, being the amount reported by the treasurer as paid for revenue of 1846,	71,080
Outstanding at this date,	<u>\$271,710</u>

*Interest on six per cent. treasury notes.*

Amount of interest on treasury notes from June 2, 1841, to January 17, 1846,	\$120,536 07
Amount allowed on notes cancelled Jan. 23, 1847,	40,632 36
	<u>\$161,168 43</u>
Amount of interest on \$71,080 in treasury not cancelled,	21,961 58
Total of interest to Oct. 31, 1847,	<u>\$183,130 01</u>

*Six per cent. treasury notes redeemed.*

Amount of principal redeemed and cancelled and in treasury on 31st of October, 1847,	\$1,228,290 00
Amount of interest allowed on same,	183,130 01
Total,	<u>\$1,411,429 01</u>



*Quarter per cent. treasury notes.*

There was issued under the act of 1842, for the purpose of redeeming \$50 six per cents, the sum of	\$100,000
Amount on hand not yet cancelled,	38,900
Leaving outstanding at close of year,	<u>61,100</u>

Amount of interest allowed of quarter per cent. treasury notes is \$87 50.

### REVENUE FROM TAXATION.

Tabular statement No. 1, accompanying this report, will show the settlements with the county treasurers on account of the revenue of 1846. It will be seen that with the exception of one or two small balances, caused by inaccuracies in the settlement sheets, the whole amount collected was paid into the treasury, except a balance of \$179 39 due from the treasurer of Fayette, and a balance of \$840 23 due from the treasurer of Marion. From both of these officers promises have been given of an early adjustment of their accounts, and it is believed that they will be paid without the necessity of compulsory measures. The statement shows a degree of fidelity in the county treasurers generally, which is highly commendable. The table above mentioned shows the following collections for state purposes, viz :

Of assessments for 1846,	\$350,727 93
Of assessments for 1845 and previous years,	26,596 72
Total collections,	<u>\$377,324 65</u>

From which deduct as follows, viz :

Treasurer's per centage,	\$16,471 15
Cost of printing,	2,340 98
Mileage of treasurers,	1,376 69
Payments at state treasury,	125 98
Exemptions to volunteers,	269 10
Erroneous assessments,	225 14
Total deductions,	<u>20,809 04</u>
Net amount due the treasury,	<u>\$356,515 61</u>

Of this amount there have been paid,	\$355,508 57
From which deduct as overpaid and to be refunded,	17 48
	<u>355,491 09</u>

Leaving still due from treasurers, \$1,024 52

The amount of \$482 20, reported as due from the treasurer of Fayette for revenue of 1845, has been paid.

There has also been paid, by the clerk of Madison county, of the amount due from James A. Kindle, late collector of that county, and his sureties, for revenue of 1843, the sum of \$218 50, leaving a balance due from them, according to the last report of my predecessor, of \$1,886 57.

The costs of printing, deducted from the collections of last year, it will be seen, amounted to \$2,340 98, a sum greater than usual, and much larger than it will be this year, the law requiring delinquent lists to be published at length having been changed, and a general notice only required now to be given. A considerable portion of the above amount will be paid by the delinquent tax-payers, but for the time being it reduces the amount of present means.

During the course of the last spring several letters were received at this office making inquiry as to the meaning of an act, approved January 13, 1845, entitled, "an act defining the duties of county treasurers in certain cases." The act provides, "that hereafter when any road tax shall have been worked out according to the provisions of the laws now in force, no county treasurer shall charge or receive any per centage on the same." In some counties this act has been understood as taking away the treasurer's fees for the collection of road certificates, and in others it has been construed as a relief to the tax-payer, who may still work out his road tax, from the ten per cent. penalty to which he was subjected for not having paid it or worked it out within the time prescribed by law. On account of the large amount of road tax assessed in several of the counties, (amounting in some instances to as much as the state tax, and in two or three counties to more than the state and county tax combined,) it has become a question of much interest. In some counties the fees are allowed, and in some they are not. In view of the different opinions entertained in regard to the true meaning of the act, and the different action had under it, it is suggested that the legislature so modify it that there can be no mistake about its meaning. It is understood that the collection of these certificates is attended with as much trouble as the collection of money, and it seems to me that it would not be just to make the treasurers collect them without any compensation. The only effect which the abolition of the fees would have upon the *state revenue* would be to increase the costs of its collection, by diminishing the amount upon which the per centage would be calculated.



Tabular statement No. 2 exhibits the amount charged on the duplicate for 1846, in each county, for state and all other purposes, and also the amount returned delinquent for state and all other purposes. By this statement it will be seen that the taxes assessed for 1846 were as follows, viz:

State tax, - - - - -	\$425,280 94
County and other taxes, - - - - -	476,414 49
Total taxes of 1846, - - - - -	\$901,695 43
To which add delinquencies of 1845 and preceding years placed on the duplicates of 1846, - - - - -	121,380 90
Total amount on duplicates of 1846, - - - - -	\$1,023,076 33

The amount returned delinquent for 1846 is as follows, viz:

Amount of state tax delinquent, - - - - -	\$74,706 88
Amount of all other taxes delinquent, - - - - -	83,442 76
Total delinquency for 1846, - - - - -	\$158,149 64
Delinquencies of former years still unpaid, - - - - -	54,404 26
Whole amount returned delinquent, - - - - -	\$212,553 90
Amount collected in 1846 for state and all other purposes, - - - - -	\$810,522 43
Which is \$78,692 28 more than was collected for 1845.	

The statement referred to does not, in all cases, give the exact amount of the delinquencies of former years still unsettled, the settlement sheets not having given an account of them. In such cases they are given from the best data on hand, and are no doubt in some instances larger than they should be. The delinquencies in several counties are very large, and in others quite small. The rate of delinquency on the taxes assessed for 1846 is about \$17 on the hundred, and on the entire amount placed on the duplicate about \$20 77 on the hundred dollars. Several causes contributed to diminish the collections during the last fall and winter which will not operate the present year. Among these causes may be mentioned the fact that one at least of the leading staples of the country, on account of a depression in the price, did not go forward to market until after the time for making settlement, and consequently contributed to produce a scarcity of money. In Tippecanoe, and perhaps one or two other counties, the delinquency was increased by a failure to make sales. It is gratifying however to observe, that in some portions of the State the collections have been unusually close, and the

delinquency is very small. This is especially true in regard to the whole White Water country, where the valuation of lands is comparatively high. In Wayne county the rate of delinquency amounts to \$8 20 on the hundred dollars; in Union \$3 18 on the hundred; in Fayette, \$4 12 on the hundred; in Franklin \$4 45 on the hundred; in Dearborn, \$6 33 on the hundred; in Ohio, \$11 13 on the hundred; in Rush, \$7 48 on the hundred; and in Henry, \$11 81 on the hundred. Other counties might also be mentioned with commendation, but the foregoing are referred to as embracing a whole range of contiguous counties, whose collecting officers have discharged their duty with fidelity, and whose citizens are entitled to high praise for the promptitude with which they have met the obligations imposed upon them by our revenue laws. If all the settlement sheets presented similar returns, our Treasury would be in a much better condition, and the ability of the State to meet her public obligations would be greatly increased.

Tabular Statement No. 3, will show the amount of taxes placed on the duplicate for 1847 in the several counties of the State with the exception of Cass, Crawford, Lake, Jefferson, Wells, and Pulas-ki, from which no returns have been received. Estimating the assessments of the counties not returned as they were last year, and the taxes assessed for 1847, and the delinquencies of former years placed on the duplicates of the present year, would be as follows, viz:

Amount assessed for State purposes, - - - - -	\$450,674 77
Amount assessed for county purposes, - - - - -	347,418 20
Amount assessed for road purposes, - - - - -	143,800 64
Amount assessed for school purposes - - - - -	17,161 08
Amount assessed for township, &c., - - - - -	14,291 28
Total amount assessed for 1847, - - - - -	\$973,345 97
Delinquencies of former years, - - - - -	127,258 47
Total charged on duplicates for 1847, - - - - -	\$1,100,604 44

The estimated amount which will be paid into the treasury on account of collections of 1847 for State purposes, may be stated as follows, viz:

Amount of assessments as above, - - - - -	\$450,674 77
Probable delinquency, - - - - -	\$65,000
Treasurers' per centage, - - - - -	16,000
Mileage of treasurers, - - - - -	1,377
Costs of printing, - - - - -	500
	<hr/>
	82,877 00



Amount received from revenue of 1847, - - -	\$367,797, 77
Amount of delinquencies which will be collected, -	35,000 00
Add tax on individual stock in the State Band, -	5,000 00

Total receipts from revenue of 1847, - - - \$407,797 77

By Tabular Statement No. 4, will be seen the number of polls assessed for 1847, with the increase and decrease since 1846; the number of acres assessed, with the increase and decrease since 1846; the average rate per acre in 1847 and also in 1846; and the value of lands, improvements, town lots and buildings, corporation stock, and personal property assessed for 1847, with the increase and decrease since 1846, in all the counties in the State with the exception of Cass, Crawford, Lake, Jefferson, Pulaski, and Wells, from which no returns have been received. Every possible effort has been made, without success, to procure a full return of the assessments. The delinquency of some of the auditors was occasioned by sickness, and the failure in Lake county was not the fault of the auditor but occurred in consequence of the death of one commissioner and the removal of another, which left the county without a board of commissioners at the June term. Estimating the above named counties according to the assessment for 1846, (which is certainly below what it should be for 1847,) the taxables for 1847 as compared with those of 1846 will be as follows, viz:

Polls returned in 1847, - - - - -	129,857
Polls returned in 1846, - - - - -	127,095

Increase, - - - - - 2,762

Acres of land assessed in 1847, - - - - -	16,654,961
Acres of land assessed in 1846, - - - - -	16,533,811

Increase, - - - - - 121,150

Value of lands in 1847, - - - - -	\$58,094,332
Value of lands in 1846, - - - - -	57,895,856

Increase, - - - - - \$198,476

Value of improvements in 1847, - - - - -	\$23,484,757
Value of improvements in 1846, - - - - -	23,317,808

Increase, - - - - - \$166,949

Value of town lots and buildings in 1847, - - -	\$13,909,047
Value of town lots and buildings in 1846, - - -	13,556,015

Increase, - - - - - \$353,032

Value of corporation stock in 1847, - - - - -	\$153,178
Value of corporation stock in 1846, - - - - -	175,973

Decrease, - - - - - \$22,795

Value of personal property in 1847, - - - - -	\$28,916,746
Value of personal property in 1846, - - - - -	27,744,871

Increase, - - - - - \$1,171,875

Value of all taxables in 1847, - - - - -	\$124,558,060
Value of all taxables in 1846, - - - - -	122,649,554

Increase, - - - - - \$1,908,506

It will thus be seen that there is an increase in the number of polls nearly up to the estimate of last year's report, and a very moderate increase on the valuations of all kinds of property except corporation stock, which, from year to year, seems to be gradually melting away. The small amount of this kind of property assessed for taxation, and its diminution year after year, demonstrates of itself the inefficiency and uncertainty of the present mode of assessing personal property. Independent of all the bridge companies, insurance companies, &c., scattered through the state, there is the Madison and Indianapolis Railroad company, with individual stock to the amount of four or five hundred thousand dollars, yielding large dividends, upon which, so far as is known at this office, not a cent of taxes has ever been assessed or collected. If further demonstration of the uncertainty of the system were wanting, it might be found by an examination and comparison of the assessment sheets for 1846 and 1847. In one county the decrease on personal property amounts to \$75,000, in another to \$50,000, in another to \$40,000, and in some others to \$20,000—showing that, under the



present mode, no certain calculation can be made as to the amount of revenue to be derived from that item of taxation. The usual practice—and I know of no law requiring any other—is for each individual to give to the assessor whatever amount of personal property he pleases. Admitting all to be honest, the system does not operate equally, because some men will tax their minds to ascertain how much property they have, and others will give it in at random; and moreover there may be a wide difference of opinion among the owners as to the value of their property. It would seem but reasonable, at least, to make it the duty of the assessor, in any case where he may have reason to doubt the correctness of the amount given in, to *inquire* into the kinds and amounts of property held by such an individual. The beauty and justice of any system of taxation consist in its *equality*.

The decrease in so many counties, in the number of acres of land assessed in 1847, compared with the assessment for 1846, is rather remarkable. It may in part be accounted for by supposing that in 1846 there may have been double assessments—that some may have been assessed which had been purchased by the banks in the collection of their debts, which, by a decision of the Supreme Court, are exempted from taxation as *lands*, and are considered as a part of their *stock*—and that in some counties an erroneous interpretation may still be given to the act approved January 19, 1846, entitled “an act to subject certain lands to execution,” construing it to exempt all school lands from taxation until ten years after the time of the sale, when it obviously means, taken in connection with other enactments, to continue to tax them according to the amount paid until the expiration of ten years after their sale, and after that to the full amount whether fully paid out or not.

The column showing the average rate per acre of land in 1847, cannot fail to demonstrate the inequality of the valuation of real estate made in 1846, and the propriety of adopting some mode, if possible, by which the inequality may be remedied. The average rate, taking the whole state together, is undoubtedly low, but it is not so material whether the valuation be *low* or *high* as it is that it be *equal*. Nothing can be so well calculated to commend to public favor a revenue system, or to induce a cheerful compliance with its requisitions, as the belief that it is *just* and *equitable*. There is no doubt that locality and fertility of soil should have much to do with the valuation of lands for taxation, but it would seem strange that the value of lands in counties contiguous to each other should vary so much as this table indicates; and it seems hardly probable that a valuation can be equal, no matter in what part of the state the lands may be situated, which fixes the average value per acre in some counties at *nine dollars* and in others at *two dollars*.

Respectfully submitted,

DOUGLASS MAGUIRE,

Auditor of State.

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